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Rural Rate Relief

The *Rating (Former Agricultural Premises and Rural Shops) Bill* [Bill 68 of 2000/01], which applies to England and Wales only, is due to be debated on second reading in the Commons on Monday 30th April 2001. The Bill aims to encourage farm diversification by establishing a 50% mandatory rate relief scheme for land and buildings formerly used for agricultural purposes. Local authorities will have a discretionary power to increase the relief to 100%. The Bill also extends the current village shops rate relief scheme to all small village food shops.

This paper describes the Bill in more detail. It also describes various established and new forms of rate relief for rural businesses, including the emergency extension of hardship rate relief for businesses affected by foot and mouth disease. Finally, the paper describes the wider debate on farm diversification which is currently taking place.

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Summary of main points

The *Rating (Former Agricultural Premises and Rural Shops) Bill* is due to be debated on second reading in the Commons on Monday 30th April 2001. The Bill aims to encourage farm diversification by establishing a 50% mandatory rate relief scheme for land and buildings formerly used for agricultural purposes. Local authorities will have a discretionary power to increase the relief to 100%. These proposals stem from a commitment contained in the *Action Plan for Farming*, announced by the Prime Minister in March 2000, which aims to “help chart a way out of the current crisis” in British farming.

The Bill also extends the current village shops rate relief scheme to all small village food shops. This implements proposals set out in the green paper, *Modernising Local Government Finance*, in September 2000.

As well as analysing the Bill in more detail, this paper describes various established and new forms of rate relief for rural businesses, including the emergency extension of hardship rate relief for businesses affected by foot and mouth disease. Finally, the paper describes the wider debate on farm diversification which is currently taking place.

The range of rural rate reliefs described in this paper can be summarised as follows.

Scope of relief	Relief given
Agricultural property	Total exemption
Stud farms	Reduction from rateable value of £2,500 (worth up to around £1,000). (Relief may be extended to 100% at discretion of local authority) ^a
Businesses suffering hardship	Up to 100% relief at discretion of local authority. An emergency extension of scheme announced in March 2001 will refund 95% of the cost to local authorities of giving relief to businesses in rural areas affected by foot and mouth disease
Village general stores and post offices	50% mandatory relief, may be topped up to 100% at discretion of local authority
Village pubs and filling stations	50% mandatory relief, may be topped up to 100% at discretion of local authority
Village food shops	50% mandatory relief, may be topped up to 100% at discretion of local authority ^a
Business rate appeals	Temporary extension of deadline for appeals in rural areas. Businesses can also apply to their local valuation office for a temporary reduction in their rateable value to reflect loss of business due to foot and mouth disease
Business rate payments	Local authorities have powers to defer the payment of rates to provide short-term help to businesses

^a Measures contained in the *Rating (Former Agricultural Premises and Rural Shops) Bill*, which has not yet been considered by Parliament.

Note: some of the relief schemes described above are subject to conditions, such as limits on the size of the business which may apply. More details are given in the body of the paper. Some of the schemes described here apply specifically to England, but in general equivalent schemes also apply in Scotland and Wales

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I Existing Rate Reliefs

A. Agricultural Relief

There is a general exemption from rates for agricultural land and buildings under Schedule 5 of the *Local Government Finance Act 1988*. The Schedule contains a list of various types of agricultural land and buildings which are specifically included or excluded.

The agricultural exemption predates the 1988 Act, and the statutory definition of agricultural land and buildings has been augmented by case law (etc) over the years when the courts have decided whether particular land does or does not qualify for the agricultural exemption. Where there is an appeal the courts must decide each case on its facts and in the light of the statutory definitions and caselaw, but they must ignore any minimal use of land or buildings for other purposes and so must draw some fine distinctions. To take a few examples, the courts have decided that the agricultural exemption does not apply in cases of land used for motorcycle racing on a few afternoons a year, land used for grazing on a golf course and in the centre of a racecourse, a field used once a year for point-to-point racing and where land was used as a training gallop. The courts have also ruled that the exemption does not apply where a building is used as a grass-drying building, an auction hall occupied by a society of local growers, a building used for wool processing and a shop for farm and other produce.¹

B. Stud Farms

Properties used for the breeding and rearing of horses or ponies (i.e. stud farms) which are linked to agricultural land or buildings are eligible for rate relief under Schedule 6 paragraph 2A of the *Local Government Finance Act 1988*. They receive a reduction in their rateable value of £2,500 (worth just over £1,000 off the rates bill for 2000/01).² This reduction was originally introduced in 1990, at the same time as the national non-domestic rating system. For premises where the rateable value without the concession would be less than £2,500, this amounts to a complete exemption from the rates.

The *Rating (Former Agricultural Premises and Rural Shops) Bill* gives mandatory rate relief of 50% to properties which until recently (but no longer) qualified for the agricultural exemption. The proposal is designed to help reduce disincentives to farm diversification. The Government has decided that stud farms will not qualify for mandatory relief under the Bill because they are already eligible for the scheme described in the previous paragraph. However, stud farms would be eligible for discretionary relief under the Bill. Further details are given in part II(A)1 of this paper.

¹ The *Encyclopedia of Rating and Local Taxation*, Sweet & Maxwell, looseleaf, para 2-315, gives details of caselaw on the agricultural exemption

² Set by the *Non-Domestic Rating (Stud Farms) Order 1989*, SI 1989/2331

C. Hardship Relief

Under section 49 of the *Local Government Act 1988*, billing authorities in England and Wales (i.e. those councils which are responsible for sending out rates bills) may reduce or remit the rates bill faced by any ratepayer, including businesses, subject to the following conditions:

- a) the ratepayer would sustain hardship if the authority did not do so; and
- b) it is reasonable for the authority to do so, having regard to the interests of local council tax payers.

Section 156 of the *Local Government etc. (Scotland) Act 1994* introduced parallel provision for Scotland.³

The word *hardship* is not defined in the *1988 Act*, and in deciding what counts as hardship local authorities have had to rely on caselaw arising from similar provision under previous legislation.⁴ The 1996 report of the Royal Institution of Chartered Surveyors' National Committee on Rating, *Improving the Rating System* (the Bayliss report), called for a statutory definition of hardship to help authorities decide whether or not to give relief.⁵

The second condition for granting hardship relief concerns a council's duty to consider the interests of its council tax payers in exercising its discretionary powers. A Practice Note issued by the Department of the Environment in 1990 contains guidance on this point:

75% of the cost of any reduction or remittance of rates can be offset against an authority's payment into the national non-domestic rate pool: 25% must be borne locally and met from the authority's General Fund;

The 'interests' of council taxpayers in an area may go wider than direct financial interests. For example, where the employment prospects in the area would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the loss of the only shop in a village;

Where the granting of relief would have an adverse effect on the financial interests of taxpayers, the case for a reduction or remission of rates payable may still on balance outweigh the cost to taxpayers.⁶

³ By inserting a new section, s25A, into the *Local Government (Scotland) Act 1966*

⁴ *General Rate Act 1967*, Schedule 1, para 3A. See, for example, *R v Liverpool City Council, ex parte Windsor Securities* [1979] R A 159; and *Wakefield Metropolitan District Council v Huzminor Investment Developments Ltd* [1989] R V R 108

⁵ Royal Institution of Chartered Surveyors (RICS): National Committee on Rating. *Improving the Rating System*, 1996, pp 32-3

⁶ *Non-Domestic Rates: Discretionary Rate Relief* August 1990 para 6(3)(iv-vi)

The guidance points out that 25% of the cost of rate relief must be borne locally: the remaining 75% is met by central government. As local authorities have no power to spread such a cost amongst other non-domestic ratepayers, the extensive use of section 49 powers would probably lead to increases in the council tax or reductions in existing services.

It should also be noted that the reduction or remission of rates under section 49 is entirely at the discretion of the local authority. There is no question of ratepayers having a right to relief if they satisfy the relevant conditions. On the other hand a council should not decide in advance that it will *never* give relief (or that it will always give relief) as the Practice Note points out:

Although authorities may adopt rules for the consideration of hardship cases, they should not adopt a blanket policy either to give or not to give relief: each case should be considered on its own merits.

Any such blanket policy would be open to judicial review on the grounds that the council had fettered its discretion and was therefore acting outside its powers (*ultra vires*). A council must also be seen to be acting reasonably in turning down an application for relief.⁷

A *DoE Press Notice* of 18 May 1992 commended a formal policy adopted by Test Valley District Council giving officers delegated powers to approve reductions in rates bills where hardship would otherwise result and where local taxpayers' interests would be adversely affected by loss of amenity.⁸

The Federation of Small Businesses has drawn attention to the fact that the power to grant hardship relief tends to be used rarely by authorities. The Federation has campaigned for the law to be changed to require local authorities to advertise on rates bills the fact that relief is available, and has blamed the difficulty some businesses have found in getting relief on the discretionary nature of the scheme.⁹

The *Financial Times* of 17th March 1999 reported that Birmingham city council had agreed to waive Rover's £4 million annual rates bill at the Longbridge plant for three years, using its section 49 powers, in an effort to help secure the 12,000 jobs at the site.¹⁰ The relief was dependent on a commitment by BMW to a programme of investment in the plant. The then leader of the council, Theresa Stewart, said:

⁷ Op cit, para 6.3(i)

⁸ 339/92 "John Redwood highlights relief for businesses"

⁹ FSB Press Release "Town halls hide UBR lifebelts during the storm" 4.2.92

¹⁰ "Council agrees to waive rates at Longbridge plant"

Given the exceptional importance of the Longbridge plant to the future of the Birmingham and West Midlands economy, I firmly believe that the remission of rates is in the best interests of Birmingham council taxpayers if it helps secure the survival of the plant and the additional investment it needs for the future."

Relief was never given due to BMW's subsequent decision to sell the Longbridge plant.

Official communications on hardship relief have stressed that in considering hardship relief, authorities should be aware of the European Union's rules on State Aid, which are designed to ensure fair competition among businesses across the EU. For example, a letter to local authorities from the Welsh Assembly stated:

Hardship relief granted under section 49 of the Local Government Finance Act 1988 may constitute state aid, in which case it would first be necessary to clear it with the European Commission. Clearance by the Commission should be sought via the Department of the Environment Transport and the Regions (DETR) and any possible state aid should be advised to us in the first instance.¹¹

In March 2001, in response to the problems resulting from the foot and mouth epidemic, the Government announced a modified version of the existing hardship relief scheme for small businesses in rural areas. This temporary scheme is dealt with in part II C of this paper.

D. Village Shops and Post Offices

The *Local Government and Rating Act 1997*, which was introduced by the previous Government, amended the *Local Government Finance Act 1988* to establish a village shop rate relief scheme. The proposals originated from a commitment in the 1995 rural white paper, *Rural England*.¹² The scheme came into force on 1st April 1998 and is designed to help rural communities by sustaining rural shops and post offices, which supply essential goods and services and provide a focal point for village life. The current scheme works as follows:

Under the scheme, the sole general store and/or post office in a rural settlement of no more than 3,000 is entitled to 50% mandatory relief. Local authorities have the power to top this up to 100%. They also have discretionary powers to grant up to 100% rate relief to any other business in a qualifying rural settlement where they are satisfied that the business is of benefit to the rural community and the cost to the council taxpayer is justified (local authorities have to meet 25% of the costs of discretionary relief from their own funds). Mandatory relief is subject to a rateable value limit of £6,000. Discretionary relief is subject to a rateable value limit of £12,000.

¹¹ Business Rates Information Letter (4/2001), 13.3.01, available at:
www.wales.gov.uk/newsflash/content/finance/info_letter%204-2001.html

¹² Cm 3016

It is for local authorities to decide which of their communities located in a designated rural area meet the qualifying criteria and to place them on a rural settlement list. The rural areas themselves are designated by central Government. The scheme was originally based on those areas designated by the Housing Right to Acquire or Enfranchise Orders. Since then the current Government has designated a further 115 areas as being rural for the purposes of the rate relief scheme.¹³

The scheme has since been extended by Statutory Instrument to sole pubs and garages: see section II(B) below. The *Rating (Former Agricultural Premises And Rural Shops) Bill*, which is due to be debated at second reading on Monday 30th April 2001, would extend this scheme to all village shops that sell mainly food for human consumption, excluding the provision of catering and confectionery, subject to a maximum rateable value of not more than £6,000 (see II(A)2 below).

II New Forms of Rural Rate Relief

A. *Rating (Former Agricultural Premises and Rural Shops) Bill*

This Government Bill, which received a first reading in the Commons on 16th March 2001, provides rate relief for two types of rural businesses. It is expected to be debated on second reading on 30th April 2001.

The Bill extends to both England and Wales but allows for separate commencement powers to be exercised by the National Assembly for Wales and for the power to make orders in relation to Wales to be exercised by the Assembly. Similar proposals, in addition to a general relief scheme for small businesses, are contained in a Scottish Executive consultation paper of 15th February 2001, *Rate Relief for Small Businesses*.¹⁴

1. Non-agricultural premises on what had previously been agricultural land and buildings

a. *Background*

In March 2000 the Prime Minister announced an *Action Plan for Farming*, which contained proposals intended to “help chart a way out of the current crisis” in British farming and “help farmers to find new and better ways to make their businesses more resilient, more efficient and more responsive”.¹⁵ The general goals identified in the document were as follows:

¹³ The Rating (Former Agricultural Premises And Rural Shops) Bill, Explanatory Notes, available at: www.publications.parliament.uk/pa/cm200001/cmbills/068/en/01068x--.htm

¹⁴ Available at: www.scotland.gov.uk/consultations/enterprise/rrsb-00.asp

¹⁵ Available at: www.maff.gov.uk/farm/agendtvo/strategy/index.htm

- Provide financial relief for the hardest-hit sectors and help ease the process of change that they must face;
- Ensure that the England Rural Development Plan steers the industry towards its new priorities and new direction;
- Meet environment and consumer safety objectives and safeguard the taxpayers interest with the minimum administrative and cost burden, regulating only where necessary and wherever possible using a range of incentives, voluntary measures and market measures to achieve these goals;
- Ensure that Government, farmers and the food industry work together to find ways to improve profitability in the industry;
- Ensure that the Government works tirelessly in the European Union to secure a more market-oriented CAP, to remove production controls and to simplify bureaucracy.

The section on the England Rural Development Plan stressed the need to encourage diversification, and as part of this policy, horse-based enterprises were identified as a significant rural-based industry providing important opportunities for diversification for farm-based activities. Measures specifically targeting this industry were are follows:

- The Government has assigned the Ministry of Agriculture, Fisheries and Food responsibility for working with the horse industry to help develop its potential for rural-based employment.
- The Government will revise planning guidance to give clear encouragement to diversification, for example to re-use redundant farm buildings and to encourage small-scale horse enterprises on working farms. This will be taken forward in the first instance by a special planning Conference hosted by Nick Raynsford, which will look at a range of diversification issues.
- The Government will consult publicly on proposals to extend rate relief to other horse enterprises linked to farm premises. This will require primary legislation.

The final point above formed the initial basis for the proposals which became Clauses 1 and 2 of the current Bill. As explained in part I of this paper, there is a total rates exemption for agricultural buildings and land. However, “agricultural” is tightly defined by legislation and caselaw, with the result that farms wishing to diversify could in some circumstances be penalised by the loss of rates exemption. In August 2000 the Department of the Environment, Transport and the Regions issued a consultation paper, *Rate Relief for Horse Enterprises on Farms*, which contained proposals for a new rate relief scheme designed to avoid this disincentive to farm diversification.¹⁶

¹⁶ Available at: www.local-regions.detr.gov.uk/consult/hefarms/index.htm

The consultation paper stated that the purpose behind the introduction of the new rate relief is not to subsidise existing ventures, but to help farmers to diversify into small horse-related businesses whilst continuing to be employed in farming. Therefore it was proposed that

...only newly established horse-related enterprises located on the operator's own or tenanted working farm will be eligible for rate relief. It will not apply to off farm horse enterprises or those established prior to the scheme coming into effect. The new scheme should only cover enterprises directly involving horses, such as riding schools, livery stables and pony trekking.

The purpose of the new scheme is to help farmers to diversify into activities other than core agriculture by easing the setting up of a horse-related enterprise in addition to their core business. This will treat off-farm and existing horse enterprises differently from new enterprises on farms, in the short term. To avoid unfairness to these businesses, the relief for new farm based horse enterprises will be time limited, to aid their establishment but not provide continuing subsidy.

A time limit of 5 years on the period of eligibility was proposed. As a corollary to the proposal that only new enterprises on working farms would be eligible for rate relief, the consultation paper stated that it was necessary to consider how to police take-up of the scheme to ensure that only genuinely new enterprises on farms receive it:

For example, someone who closes a horse business and then reopens it cannot really be said to be establishing a new enterprise. On the other hand, where one activity, for example livery, closes and subsequently another type of horse business requiring different resources, such as trekking, opens on the same farm, there may be a case for allowing relief.

It is proposed that only genuinely new enterprises on working farms receive relief.

The consultation paper proposed that since stud farms which are linked to agricultural land or buildings already benefit from rate relief, they should not be covered by the new scheme. It also proposed that relief for farm based horse enterprises should have both a mandatory and discretionary element similar to that in operation for village shops. Each qualifying property would be entitled to mandatory relief for 50% of its rates bill with a discretionary power for local authorities to top this up to 100%. Local authorities would be liable to meet 75% of the cost of any discretionary relief given. The entire cost of the mandatory scheme would be met by the Treasury. Since the scheme was intended to assist farmers to set up new small horse-related businesses to help supplement their income from agriculture, it would be targeted at small enterprises having a rateable value of less than £6,000.

The consultation paper speculated on how much the new scheme might be worth to eligible farms:

Those ratepayers who qualify for the new relief will obviously see lower costs than had no relief been available. Once again because of the scarcity of information mentioned above it is not possible to quantify the gain to ratepayers. The maximum level of relief will apply to a property with a rateable value of £6000. 50% relief would be worth £1,248 in England in 2000/01, and if this were topped up to 100% it would be worth £2,496, i.e. complete exemption from rates. The amount of relief would be less for smaller properties.

In November 2000, DETR issued a summary of responses to the consultation paper.¹⁷ This confirmed that the proposals had not been particularly well received. Of the 97 responses received, only three approved of the proposals (all local authorities). 66 responses, on the other hand, expressed opposition to the proposed scheme (68% of respondents). Of these, 42 responses were from those in the horse industry, including farmers already operating horse establishments. 24 hostile responses were received from those outside the horse industry, including 6 non-horse associations and bodies, 5 rating and other professional practitioners, and 13 local authorities. The summary stated:

All those against the scheme gave consistent reasons for their opposition. They expressed the view that the equine industry is currently suffering a decline, with many parts of the country experiencing an over capacity of equine businesses. They felt that those currently in business are finding it hard to survive and operate on very low profit margins. They thought the proposed relief would give newly established farm enterprises an unfair economic edge in this tight market and the industry could not sustain any sudden growth that might be generated without widespread closure of existing establishments. They said this would seriously damage the wider rural economy.

There was a clear view from respondents with equine interests that relief should be extended to all equine businesses, both new and existing, irrespective of location. However, those in the horse-breeding sector wanted the horse to be classified as an agricultural animal thus farmers diversifying into horses would then fall within the existing agricultural exemption from rates. They thought this preferable to a rate relief scheme which only offered a 50% mandatory reduction in rate bills.

Concern was also expressed that any encouragement to farmers to diversify might have a detrimental effect on the rural environment, particularly if diversification led to the construction of large new buildings and inappropriate conversions of derelict or existing farm buildings.

The summary document also identified 27 responses which expressed neither support nor outright opposition to the proposals. Most of these were from local authorities but this category also included the National Farmers' Union and the Country Landowners' Association, the two major organisations that represent the farming community. The

¹⁷ Available at: www.local-regions.detr.gov.uk/consult/hefarms/response/index.htm

summary stated that although respondents in this category did not express outright opposition, all wished the proposals to be altered substantially:

As with those responses which expressed opposition to the proposals the responses with no specific preference thought the proposals were unfair to existing equine businesses and that given the state of the horse industry they may lead to the closure of non-farm establishments. Most thought the relief should be extended to existing horse businesses no matter where they were located. Some, including the NFU, expressed the view that the rate relief should be extended to all on-farm businesses not just those linked to the horse. One response suggested that if relief is to be restricted to horse enterprises on farms then the definition of a qualifying business should be as comprehensive as possible, and include such things as storage buildings, blacksmiths and car parks.

Other comments received in response to the consultation paper included the following:

- a) 5 respondents said the best way to help farmers and the rural communities was to cut fuel tax.
- b) 6 respondents thought the relief should run for 3 years instead of 5 years.
- c) 6 respondents thought it would be difficult for local authorities to determine which businesses were new and which were not. It would also be difficult to establish the precise day from which the new business would become eligible for rate relief, ie the day it was established.
- d) 5 respondents thought the relief should be 100% of the rate bill and entirely funded by Central Government.
- e) Most local authorities and rating professionals thought it reasonable for the threshold, below which businesses would be eligible for relief, to be £6,000 rateable value.

The Local Government Association's response noted a reference in the consultation paper to "the long awaited proposals of a scheme of rate relief for all small businesses".¹⁸ The Association stated:

We are frankly surprised that time has been found in a crowded legislative programme to assist one specific sector of rural industry. Local authorities will not relish having to explain to the other rural businesses why horse enterprises have been singled out.¹⁹

A further consultation paper, *Rate Relief for Farm Diversification Enterprises*, was published by the Department of the Environment, Transport and the Regions in November 2000.²⁰ This stated:

¹⁸ This commitment was made in the white paper *Modern Local Government: In Touch with the People* in July 1998, Cm 4014, chapter 10, and more recently in *Local Government Finance: A Green Paper*, published by DETR in September 2000

¹⁹ 29 September 2000

²⁰ Available at: www.local-regions.detr.gov.uk/consult/raterel/index.htm

Responses to the August consultation suggested that the proposed relief would not provide sufficient help to farmers who wished to diversify, as there were limited opportunities to move into horse-related activities. It was felt that it would be more helpful to farmers if rate relief were allowed for all new non-agricultural activities on farms.

Consequently, a new proposal was unveiled: rate relief for all new small-scale farm diversification enterprises:

4. We are therefore now proposing that rate relief should be available for all small properties (with a rateable value of £6000 or less) on farms used for new non-agricultural activities, including but not limited to those involving horses. This would help farmers to diversify into a much wider range of activities.

5. One of the concerns raised in the previous consultation was that the proposals would give farmers diversifying into horse-related activities an unfair advantage over other horse enterprises, in a partly saturated market. This revised proposal will reduce possible competitive pressures on existing horse enterprises, by allowing rate relief for a wider range of activities.

6. There are many non-agricultural activities that already take place on some farms, which suggest the kind of properties that would be eligible for the new rate relief. These include farm shops, mail order businesses, services, offices, craft shops or workshops, storage, caravan parking, light industry and leisure activities including, but not exclusively those involving horses. There are a number of factors involved in establishing any new business on a farm, such as financing, market conditions and planning consent, which will first need to be taken into account. Once a new business is established on a farm, it would be eligible for the new rate relief, provided the property it occupies has a rateable value of no more than £6000.

It was proposed that the wider rate-relief scheme should be made available on broadly the same terms as for the previous proposal: ie. 50% mandatory relief for eligible farms, with a discretionary top-up by local authorities of up to 100%. Again, only small-scale enterprises (properties with a rateable value of less than £6,000) would be eligible.

The new consultation paper again proposed a temporary scheme, since the relief was intended to be a transitional measure, to help farmers to move into new areas of business, rather than to provide long term subsidy. However, there was a change from the previous proposal:

The previous paper suggested that relief should be available for five years for each property, running from the day that it became eligible for rates. **We are now proposing that relief should be available for a fixed five-year period running from the day the legislation comes into force.** At the end of this period, the legislation should allow Parliament to decide whether to continue the scheme for a further period.

Six respondents to the previous paper²¹ thought it would be difficult for local authorities to determine which businesses were new and which were not, but this element of the scheme remains unchanged in the November consultation paper:

16. The proposed relief is aimed at helping farmers to establish new non-agricultural activities using land and buildings that were previously agricultural. It should be precisely targeted on the new diversification activities it is intended to encourage. **We therefore propose that the relief should only be available to farmers themselves, for newly established enterprises.**

[...]

19. In order to ensure that relief was given only to new businesses and not to an existing business that the farmer had transferred from another property, we would also have to include a test that recipients were genuinely new businesses. However, if the property had to be in the same occupation as the farm on which it stood, businesses established by farmers or their immediate families separately from the farm itself might be excluded from the relief.

20. In some cases a farmer may wish to establish more than one different diversification activity on their farm. In such cases we could allow relief to each of these new businesses, provided each occupied property with rateable values no more than £6,000. Alternatively, we could limit the relief to one enterprise on each farm, since the purpose of the scheme is to encourage small-scale activity.²²

The Government proposed that relief should not be available to any other business that occupied land or buildings which had previously been in agricultural use, for example if someone purchased or rented property on agricultural land for the purpose of establishing a new business, or transferring an existing one. In such cases the new occupier would be liable to pay the rates.

The November consultation paper confirmed that stud farms which are linked to agricultural land and buildings would be excluded from the mandatory relief scheme since these already received rate relief “which in most cases is worth more to them”. However, the discretionary top-up would be extended to new stud farms:

23. Only those stud farms with rateable values between £5,000 and £6,000 (unadjusted)²³ would be slightly better off if they received the new relief instead of the existing one. The existing relief is worth between 50% and 41.67% to them. For those below £5,000 rateable value (unadjusted), the existing relief is worth more than the proposed 50% mandatory relief and amounts to a complete

²¹ Department of the Environment, Transport and the Regions consultation paper, *Rate Relief for Horse Enterprises on Farms*, August 2000, op cit

²² Department of the Environment, Transport and the Regions consultation paper, *Rate Relief for Farm Diversification Enterprises*, November 2000, op cit

²³ the market value, i.e. before relief is paid

exemption for those whose rateable values would otherwise be less than £2,500. It also applies to all stud farms whose unadjusted rateable values exceed £6,000 - shown as £3,500 or more in the rating lists after the adjustment - which would receive no relief under the scheme proposed here. And the existing stud farms relief will continue to be available beyond the five-year life of the proposed new relief.

24. However, stud farms do not benefit from the discretionary top-up relief that is proposed for other enterprises on farms. We therefore suggest that **stud farms that benefit from the existing reduction in their rateable value should be eligible for the discretionary element of the new relief for non-agricultural enterprises on farms**. As with other recipients of the new relief, the discretionary top-up relief would only be available to stud farms newly established in agricultural property, with unadjusted rateable values no more than £6,000 (shown as no more than £3,500 in the rating lists). This would put them on the same footing as all other businesses and give farmers an equal incentive to diversify into this activity as is proposed for any other.

As stated above, the Government proposed that the farm diversification relief scheme would be available for a fixed five-year period running from the day the legislation came into force: at the end of this period, the legislation would allow Parliament to decide whether to continue the scheme for a further period. The November consultation paper also stated that further relief may be available in the longer term from a general scheme of rate relief for all small businesses, as proposed in the September 2000 green paper, *Modernising Local Government Finance*. The consultation paper confirmed (para 14) that if this relief became available, small non-agricultural activities on farms would be eligible for it, along with all other small businesses.

Both consultation papers pointed out that the costs of the scheme for the Exchequer and local authorities would depend on the number and value of the properties that become eligible for the relief. This in turn would depend on the extent to which farmers diversify during the five years of the scheme. Furthermore, the discretionary top-up would only give rise to costs if local authorities chose to pay it. The August 2000 paper showed the costs, in 2000/01 values, if 5% and 20% of all farmers in England established a new horse-related enterprise at the upper end of the size threshold (i.e. with a rateable value of £6,000). Those costings would apply equally whether the relief was available only for farmers going into new horse enterprises, or, as under the new proposals, for all new non-agricultural activities. But the November 2000 paper suggested that the wider relief scheme was likely to lead to a higher level of take-up by farmers because it would also be available to those farmers for whom horse-related enterprises were unsuitable, so it also showed costs if 25% and 30% of all farmers in England established a new enterprise at the upper end of the size threshold. However, the paper pointed out that in practice, most eligible properties would be below the upper size threshold, so costs would probably be below those shown in the table below.

Possible costs to the public purse of farm diversification rate relief in England: £m²⁴

		Exchequer	Local Authorities	Total
5% take-up	Mandatory scheme	9		9
	Discretionary scheme	7	2	9
	Total	16	2	18
20% take-up	Mandatory scheme	37		37
	Discretionary scheme	28	9	37
	Total	65	9	74
25% take-up	Mandatory scheme	46		46
	Discretionary scheme	34	11	46
	Total	80	11	92
30% take-up	Mandatory scheme	55		55
	Discretionary scheme	41	14	55
	Total	96	14	110

68 responses to the November 2000 consultation were received. DETR's analysis of the responses showed that

- 32 supported the proposed relief (including 8 from farm and rural bodies and 14 local authorities)
- 11 opposed the proposed relief (including 7 from the horse industry)
- 19 expressed concerns about the proposal (including 9 local authorities), mainly on the grounds of the effect on competing businesses, but were not opposed to the relief. The two farming/rural bodies to express such concerns were the Countryside Agency and CPRE. However, four others that supported the relief also had similar concerns
- 6 were neutral as to whether the relief should be introduced (including 5 local authorities)

The Council for the Protection of Rural England, while welcoming the use of rate relief as “a useful mechanism to support important rural businesses and services”, called for relief to be targeted on businesses that generate benefits to wider society and the environment. Farm diversification should be but one element of a much wider strategy to secure the future well-being of farming. CPRE believed, therefore, that

While the proposed rate relief for farm diversification related development may be appropriate in some areas, it should not be promoted as a universal panacea. There is a need for a careful assessment of the appropriateness of the proposals to

²⁴ Source: Rate Relief for Farm Diversification Enterprises, Department of the Environment, Transport and the Regions, November 2000, available at: www.local-regions.detr.gov.uk/consult/raterel/index.htm. Note: in one instance, the local and central government figures add up to less than the total shown due to rounding

the farm business in question, the impact on the surrounding environment and the current provision and wider economic circumstances in the local area. We believe, therefore, that if implemented the proposals should also be accompanied by measures to bring all farm diversification related development under direct planning control.²⁵

The Association of British Riding Schools expressed concern about unfair competition arising from the proposed relief scheme:

Riding schools involved in both professional training and the leisure industry are under the threat of closure through livery competition, the latter being an unlicensed and unregulated industry.

We are in favour of any help to the farming industry by assisting “enterprises”, but not in competition with an already vulnerable industry. We do not also wish to see a lowering of equitation standards in the country and any concessions must be “across the board”.

[...]

Reduction in the Uniform Business Rate for the whole of the riding industry would be a very welcome solution. Any diversification project must be subject to planning/licensing regulations currently in force in said industry, not across the board exemption.²⁶

Regarding the terms of the relief scheme,

- 8 respondents (including 5 local authorities) agreed with the proposed terms
- 6 felt there should be a higher level of mandatory relief, some because discretionary relief is unlikely to be granted, or to reduce costs for local authorities
- 2 felt that discretionary relief should be centrally funded
- 6 (including 3 from farm and rural bodies) suggested that the relief should take the form of a rateable value reduction for all properties, whatever their size
- 11 horse-related respondents proposed a complete rate exemption for the equestrian industry
- 3 local authorities suggested the terms of relief should be linked to the existing village shop scheme, to simplify administration
- 2 respondents (the Game Farmers’ Association and the Countryside Alliance) said game farms should be exempt from rates
- The Forum of Private Business suggested discretionary relief could lead to inequality

Other comments included the following:

²⁵ Letter to DETR, 20.12.00

²⁶ Letter to DETR, 29.12.00

- 12 respondents (including 9 local authorities) expressed concern about the practical difficulties in defining and enforcing the proposed restrictions
- 9 respondents (including 7 local authorities) raised concerns about the administrative cost and burden for local authorities
- 8 raised planning issues (including 4 from farm and rural bodies and 3 local authorities). Farmers wanted planning restrictions limited, while local authorities wanted them strengthened.
- 5 raised concerns about the effect of diversification on the environment and sustainability (including 3 from farm and rural bodies and 2 local authorities).
- 3 raised concerns about the welfare of horses and the regulation of farm-based horse enterprises (including 2 from the horse industry)
- 3 suggested relief should be conditional on some form of business planning or advice.
- 2 respondents, including the Royal Institute of Chartered Surveyors, expressed a general reservation about the effectiveness of rate reliefs. RICS said that the benefit is usually passed on to landlords rather than occupiers, but acknowledged that farmers were more often freeholders and so would get the benefit themselves.

The Government's conclusions were announced in a Written Answer on 28th February 2001. The junior Environment Minister, Beverley Hughes, said:

In the light of our consultation, we are proposing to implement a scheme to allow 50 per cent. rate relief for an initial period for five years to all new small businesses established on property that was previously subject to the agricultural exemption from rates.²⁷

The November consultation paper proposed that relief should not be available to any business other than a farm that occupied land or buildings which had previously been in agricultural use: for example if someone purchased or rented property on agricultural land for the purpose of establishing a new business they would not qualify. The Minister's answer confirmed that this aspect of the scheme had been dropped. Thus, as the scope of the scheme would be wider than indicated in the November consultation paper, the maximum costs shown in the table above would presumably be subject to a modest increase. The Minister continued:

We also intend to implement the proposals in "Modernising Local Government Finance: A Green Paper", published last September, for extending the rate relief scheme for village shops to provide mandatory relief to certain food shops, pubs and petrol filling stations.

Legislation to implement these proposals will be introduced as soon as parliamentary time allows. They are a significant contribution to realising the vision set out in the White Paper, "Our countryside: the future".

²⁷ HC Deb 28.2.1, c 689W

The extension of the village shops scheme is dealt with in parts II(A)2 and II(B) below.

b. The Bill

The explanatory notes to the Bill describe this new scheme of temporary rate relief as follows:

The bill establishes a 50% mandatory rate relief scheme for land and buildings used for non-agricultural purposes on what had been agricultural land and buildings for at least 183 days during the year prior to the date on which the provisions come into force. The mandatory relief will not be available to stud farms which already benefit from an existing concession that reduces their rateable value. Local authorities will have a discretionary power to increase the relief to 100% where they feel the changed use will be of benefit to the wider community - new stud farms on previously agricultural land will also be able to qualify for this discretionary relief.

Both mandatory and discretionary relief will initially be limited to maximum of 5 years, with a provision for this to be extended by Order made by the Secretary of State. However, premises that include land and buildings already qualifying for relief prior to any extension will only receive relief for a maximum of 5 years from the date the original land and buildings first qualified for relief. It is intended that relief will be limited to properties with rateable values of less than £6,000.²⁸

Clause 1 of the Bill amends section 43 of the *Local Government Finance Act 1988* to establish a 50% mandatory scheme of rate relief for farm diversification schemes and other former agricultural premises, as described above. **Clause 2** amends section 47 of the 1988 Act to enable local authorities to give discretionary relief on top of any mandatory relief paid, up to a maximum of 100% of the rates bill. The Treasury will meet 75% of the cost of any discretionary relief paid by local authorities, but local council taxpayers will have to meet the remainder of the cost.

The NFU, while welcoming the extension of the proposed relief to cover all new farm diversification schemes rather than just those which are horse-related, expressed some concerns about the Bill which, it said, deserved careful examination during the Bill's proceedings.²⁹

First, the NFU suggested that it would be desirable to find more ways of helping existing small rural businesses, "which would understandably resent rating relief being given to

²⁸ Bill 68 – EN, Paras 3-4, available at:

www.publications.parliament.uk/pa/cm200001/cmbills/068/en/01068x--.htm

²⁹ Rating (Former Agricultural Premises and Rural Shops) Bill, Second reading briefing, 27.4.1

new businesses simply because they are new". In addition, the NFU expressed concern that the discretionary top-up could lead to competitive distortion:

it is highly likely that some local authorities would use their discretion quite generously whereas others would not, resulting in marked differences in financial conditions for businesses within the same locality. We suggest that consideration should be given to a fairer approach, which would be more beneficial to the rural economy, by providing mandatory relief for say the first £2500 RV on all small rural businesses (existing and new) whilst retaining a discretion for authorities to give more.

The NFU also drew attention to the way in which the time limits imposed by the Bill would operate:

We understand the reason for time-limiting what is essentially a "pump-priming" measure, but the relief appears to be available to premises for only a set 5 year period from the coming into force of the new law. In other words if a new enterprise were developed in year 4, and the scheme was not extended by order, it seems that it would benefit from only one year's relief. If this is the case the approach is flawed as it could encourage a rush of applications in the first part of the period in order to gain the maximum relief from rating, and a tailing off later as the value of the relief waned. It is important to ensure a well-paced encouragement to businesses by arranging for the 5 year period to commence from the day the property became liable for non-domestic rates (as was proposed in the original consultation on horse enterprises); we seek ministerial assurances that this is the Government's intention, and that they will amend the Bill to put it beyond doubt as may be necessary.

The NFU expressed regret that the Government had not been able to make faster progress on the Bill, which was introduced in the Commons on March 16, "as its prospects of becoming law in the near future do not seem good if a June general election is called". The NFU commented that

help for the rural economy has been made all the more urgent by the adverse effects on businesses of the disastrous outbreak of foot and mouth disease.

Should the Bill fall, they would urge party spokesmen to give an assurance that the next government will reintroduce a measure along these lines very early in the new Parliament.

2. Extension of mandatory 50% rate relief to village food shops

The *Local Government and Rating Act 1997* gives mandatory 50% rate relief to the sole village general store and post office in rural settlements. Further details on the existing scheme for village shops and post offices are given in part I(D) above.

The current Bill extends this scheme to all village shops that sell mainly food for human consumption, excluding the provision of catering and confectionery. The shops must have a rateable value of not more than £6,000, the same as the existing threshold for general

stores and post offices. Food shops receiving mandatory relief will also be eligible for top-up relief of up to 100% at the discretion of the local authority.

The Bill would implement proposals contained in part 5 of the September 2000 green paper, *Modernising Local Government Finance*.³⁰ Annex F to the green paper observed:

F2. A recent report on a survey by the Local Government Association shows that the **mandatory** rate relief scheme for village shops and post offices is working effectively. However, while some local authorities are making imaginative use of the discretionary scheme, overall use of the **discretionary** scheme is variable partly because some authorities find it difficult to help some businesses rather than others and would welcome further national guidelines. The current scheme costs the Government about £4.4m a year at present (£2.2m on the mandatory relief and £2.2m on the discretionary).

Three proposals for extending the village shop relief scheme were discussed:

F3. There is continuing concern about the decline in services in small rural communities. Recent concerns have focused on three areas where there is particular evidence of decline:

- **Public houses** which can be an important focus for communities, particularly where other facilities such as shops and post offices have closed, and may provide specific community facilities such as meeting rooms or children's play areas.
- **Garages and petrol filling stations** in rural areas. Rural residents are more dependent on their cars for travel and garages may also provide other facilities (shops, cash facilities) in an area where these are not otherwise provided.
- **Small (particularly food) shops** that are not the sole shop in settlements under 3000.

F4. All of these types of business are currently eligible for discretionary rate relief under the existing scheme. Our proposals for rate relief for small businesses generally will provide further assistance, but we are also considering whether additional mandatory rate relief for those businesses providing important local services would help to sustain communities and reduce social exclusion.

The green paper therefore proposed to extend the existing village shop rate relief scheme to all of the three types of businesses listed above. The third of these proposals would be implemented by **Clause 3** of the current Bill. The first and second proposals were recently implemented by Statutory Instrument: see part II (B) below. It is understood that legal advice received by the Department of the Environment, Transport and the Regions indicated that for technical reasons it would not be possible to extend the village shops scheme to all food shops using secondary legislation. Clause 3 therefore inserts into section 43 of the *Local Government Finance Act 1988* a definition of village food stores

³⁰ DETR, available at: www.local.detr.gov.uk/greenpap/index.htm

which will qualify for rate relief. Restaurants, cafes and take-aways are not eligible for relief. Unlike the scheme for village general stores and post offices, relief is not restricted to shops which are the only one of their kind in the village.

B. Pubs and Filling Stations

The *Local Government and Rating Act 1997* gives mandatory 50% rate relief to the sole village general store and post office in rural settlements. Further details on the existing scheme for village shops and post offices are given in part I(D) above.

Clause 3 of the *Rating (Former Agricultural Premises and Rural Shops) Bill* extends this scheme to all village shops that sell mainly food for human consumption, excluding the provision of catering and confectionery. The shops must have a rateable value of not more than £6,000, the same as the existing threshold for general stores and post offices. In other words, only small businesses will benefit. Details of these proposals are given in II(A)2 above.

The September 2000 green paper, *Modernising Local Government Finance* also contained proposals to extend the village shops scheme to public houses and petrol filling stations:³¹

F5. We would welcome views on whether we should extend the mandatory 50 per cent rate relief in designated rural settlements of less than 3000 population to the following premises:

- singly owned pubs where the pub is either the sole remaining retail outlet **or** it is the sole public house and provides a defined community facility or service (eg cash machine, cashback facility, meeting room for local community, or public information and communication technology access point) where they have a rateable value of less than £6,000;
- shops selling mainly food where they have a rateable value of less than £6000;
- singly owned garages offering a cash machine or cashback facility where there is no post office and where they have a rateable value of less than £6,000

The proposals on pubs and garages were implemented by the *Non-Domestic Rating (Public Houses and Petrol Filling Stations) (England) Order 2001* [SI 2001/1345]. The accompanying press release quoted the Local Government Minister, Hilary Armstrong:

This new business rate relief will provide much needed help to rural businesses and village communities. It delivers on Government commitments made in the Local Government Finance Green Paper and the Rural White Paper.

³¹ DETR, available at: www.local.detr.gov.uk/greenpap/index.htm

The regulations are the product of extensive consultation. They are measures which rural communities have asked for.

Both village pubs and petrol filling stations have been under considerable pressure in recent times due to changing market and economic conditions. Many are finding it hard to survive.

In their different ways both pubs and petrol stations provide services vital to village life and the well being of those that live in these communities. The new rate relief will help to protect those services.³²

A wider range of businesses will benefit from relief than was suggested in the green paper: all sole pubs or petrol stations with a rateable value of £9,000 or less, in a qualifying rural settlement, will be eligible for 50% mandatory relief, which may be increased to up to 100% at the discretion of the local authority:

On 19 September 2000, the Government published a Green Paper *Modernising Local Government Finance*. This asked for views on whether mandatory 50% rate relief should be extended to food shops, singly owned rural pubs and singly owned petrol filling stations, particularly if they provide a community facility or service (eg cash machine, cashback facility, meeting room, public information and IT access). The response was overwhelmingly in support of extending rate relief. However, some thought the additional ownership and service qualifications would mean many village pubs and petrol filling stations failing to qualify for relief.

Today's announcement involves the making of two Orders, one to add sole village pubs and petrol filling stations to the list of eligible premises³³ and one to raise the qualifying rateable value for pubs and petrol filling stations to £9,000.³⁴ This is in recognition that small village pubs and petrol filling stations usually have higher rateable values than village shops. There is no additional service or ownership qualification criterion.³⁵

Unlike the scheme for village food shops set out in the *Rating (Former Agricultural Premises and Rural Shops) Bill*, pubs and filling stations will only be eligible for rate relief if they are the only pub or filling station in the village.

C. Foot and Mouth Disease: Emergency Relief

On 20th March 2001 the Environment Minister, Michael Meacher, made a statement on the work of the Rural Task Force.³⁶ He announced, amongst other things, "a preliminary package of measures to alleviate the immediate financial hardship of small businesses in rural areas which have been badly hit by the sudden drop in visitors and other knock-on

³² DETR press release 217, "Village pubs' and rural petrol stations' rate bills cut in half", 6.4.1

³³ SI 2001/1345, op cit

³⁴ *The Non-Domestic Rating (Rural Settlements) (England) (Amendment) Order 2001*, SI 2001/1346

³⁵ DETR press release 217, op cit

³⁶ HC Deb 20.3.01, c191

effects of the foot and mouth disease”. Mr Meacher listed a number of business rate measures, including some new proposals and some existing avenues for obtaining relief:

- Central government contribution to hardship rate relief will be increased from 75% to 95% for “small business in rural authorities in areas of greatest need and who are suffering greatest hardship as a result of FMD”;
- Affected businesses can apply to the Valuation Office Agency for a temporary reduction in their rateable value;
- The *Rating (Former Agricultural Premises and Rural Shops) Bill*, which received a first reading on 16th March 2001, would extend mandatory 50% rate relief to all food shops in small rural settlements.
- The Government will lay regulations to extend mandatory 50% rate relief to sole village pubs and garages with a rateable value of less than £9,000.
- Local authorities will consider using their existing powers to allow deferred payment of rates.

The details of the emergency scheme described in this part of the paper apply to England only, but similar schemes have been introduced by the Welsh Assembly and the Scottish Executive. Details of the permanent hardship relief scheme are given at part I C of this paper.

A Department of the Environment, Transport and the Regions press release of 22nd March 2001 gave further details of the Government’s proposals.³⁷ Businesses with a rateable value of £12,000 or less in rural local authority districts which adopted the scheme would be eligible for 100% rate relief, “initially” for a three month period, providing they can show that they have suffered serious economic loss through the impact of foot and mouth disease. For such businesses, 100% relief over three months would be worth up to £1,290. The press release stated: “The scheme will allow impacts beyond three months to be kept under review”.

The Government promised to underwrite 95% of the cost to local authorities of giving relief. Small businesses in other areas, and businesses with properties above £12,000 rateable value in any area, would be eligible to apply for hardship relief under the existing provisions [see Part I of this paper] if they have been seriously affected by foot and mouth disease. In these cases the council would, as usual, fund 25% of the cost, with central government funding 75%. The 151 rural local authorities in England where the scheme would operate are listed below (source: DETR, 27th March 2001)

³⁷ “Government aid to reduce rates bills for small businesses badly affected by foot and mouth disease”, available at www.press.detr.gov.uk/0103/0163.htm

FMD Emergency Rate Relief: List of Rural Local Authorities

Eastern Region	South East	South West
Babergh	Arun	Caradon
Braintree	Ashford	Carrick
Breckland	Aylesbury Vale	Cotswold
Broadland	Canterbury	East Devon
East Cambridgeshire	Cherwell	East Dorset
East Hertfordshire	Chichester	Forest of Dean
Fenland	Chiltern	Isles of Scilly
Forest Heath	Dover	Kennet
Huntingdonshire	East Hampshire	Kerrier
Kings Lynn & West Norfolk	Horsham	Mendip
Maldon	Isle of Wight	Mid Devon
Mid Bedfordshire	Lewes	North Cornwall
Mid Suffolk	Maidstone	North Devon
North Norfolk	Mid Sussex	North Dorset
South Bedfordshire	New Forest	North Wiltshire
South Cambridgeshire	Rother	Penwith
South Norfolk	Sevenoaks	Purbeck
St Edmundsbury	Shepway	Restormel
Suffolk Coastal	South Oxfordshire	Salisbury
Tendring	Tandridge	Sedgemoor
Uttlesford	Test Valley	South Hams
Waveney	Thanet	South Somerset
	Tonbridge and Malling	Stroud
	Tunbridge Wells	Taunton Deane
	Vale of White Horse	Teignbridge
	Waverley	Tewksbury
	Wealden	Torridge
	West Berkshire	West Devon
	West Oxfordshire	West Dorset
	Winchester	West Somerset
	Wycombe	West Wiltshire

North East	Yorkshire and the Humber	East Midlands
Alnwick	Craven	Bassetlaw
Berwick-upon-Tweed	East Riding of Yorkshire	Boston
Castle Morpeth	Hambleton	Daventry
Derwentside	Harrogate	Derbyshire Dales
Durham City	North Lincolnshire	East Lindsey
Easington	Richmondshire	East Northamptonshire
Redcar and Cleveland	Ryedale	Harborough
Sedgefield	Scarborough	High Peak
Teesdale	Selby	Hinckley and Bosworth
Tynedale		Melton
Wear Valley		North West Leicestershire
		Newark and Sherwood
		North Kesteven
		Rushcliffe
		Rutland
		South Derbyshire
		South Holland
		South Kesteven
		South Northamptonshire
		West Lindsey

West Midlands	North West
Bridgnorth	Allerdale
East Staffordshire	Carlisle
Herefordshire	Chester
Malvern Hills	Congleton
North Shropshire	Copeland
North Warwickshire	Crewe and Nantwich
Oswestry	Eden
Shrewsbury and Atcham	Ellesmere Port and Neston
South Shropshire	Lancaster
South Staffordshire	Pendle
Staffordshire Moorlands	Ribble Valley
Stratford-on-Avon	South Lakeland
Wychavon	Vale Royal
	Wyre

The DETR press release stated that the authorities covered by the scheme included all the areas in England most seriously affected by Foot and Mouth Disease as well as rural areas

that are less seriously affected. 78% of the 390,000 total of business properties in the authorities listed would be eligible to apply for relief under this scheme; of these it was estimated that 50,000 will apply for a reduction.³⁸

Guidance to local authorities on the operation of the emergency scheme was issued by DETR on 27th March 2001.³⁹

D. Business Rate Appeals

The Department of the Environment, Transport and the Regions press release of 22nd March 2001 announced that businesses in rural areas considering appeals against their business rate valuation (whether because of foot and mouth disease or not) will have an additional period of three months from 31 March in which to make such an appeal, so that the benefit of any resulting change can take effect between 1 October 2000 and 31 March 2001:

In the 118 rural authorities in England, we are also extending by 3 months to 30 June 2001 the deadline for making appeals against business rate valuations, both those arising from FMD and those made for any other reason. Changes in value arising from appeals made in these areas before the new deadline, will take effect from 1 October 2000, or the date of any change in the property, whichever is the later. Changes in value arising from appeals made after 30 June 2001 will take effect from 1 April 2001, or the date of any change in the property, whichever is the later. In other areas the deadline will remain 31 March 2001 if appeals are to take effect before 1 April, or 30 April 2001 for appeals arising from changes to the property which first occurred during March.⁴⁰

This temporary change, which came into force on 1st April 2001, was implemented by the *Non-Domestic Rating (Alteration of Lists and Appeals) (Amendment) Regulations 2001*, SI 2001/1271.

E. Other Measures

The DETR press release of 22nd March 2001 described the following additional features of the rating system which could be used to assist businesses facing difficulties as a result of foot and mouth disease:

³⁸ DETR press release 22.3.01, "Government aid to reduce rates bills for small businesses badly affected by foot and mouth disease", op cit

³⁹ Available at: www.local.detr.gov.uk/finance/busrates.htm

⁴⁰ "Government aid to reduce rates bills for small businesses badly affected by foot and mouth disease", op cit

- Local authorities have powers to defer the payment of rates to provide short-term help to businesses. DETR has agreed⁴¹ that local authorities will not have to make up any consequential shortfall in their regular payments of rates income to central government.⁴²
- Businesses can also apply to their local valuation office for a temporary reduction in their rateable value to reflect loss of business due to FMD.⁴³

III Farm Diversification

The idea of farm diversification has been widely welcomed for many years, but the practicalities are very difficult.

A. How important is diversification?

There is no simple way of knowing the scale of farm diversification, let alone how much income derives from it. Farm Income statistics are very thorough and detailed, but they amalgamate on-farm non-agricultural activities, such as tourism, farm shops or crafts, with agricultural income.⁴⁴ There are figures for off-farm income, sometimes quoted as a measure of diversification, but they include other items, for example a job held by the farmer's spouse outside farming. The best figure seems to be one for "total inseparable non-agricultural activities" in *Agriculture in the UK 2000*. The glossary defines this item as "Non-agricultural activities which are included within the business level accounts and are inseparable, e.g. some cases of bed & breakfast and recreation facilities".⁴⁵ The definition suggests that it would be an underestimate of farm diversification, because some of the diversified activities would be separable – for example, a guest house run as a separate business.

The figures show a steady increase from £221m as an annual average between 1989 and 1991, to £432m in 1998 with provisional figures of £441m in 1999 and £479m in 2001. The importance of those figures depends upon the measure chosen as a comparison. Gross output at basic prices in 2000 was £15.3bn, suggesting that income from inseparable non-agricultural activities is relatively unimportant. However, farms have high costs, so that net incomes are far lower than gross incomes. The provisional figures for total income from farming (TIFF) in 2000 was only £1.9bn, including the inseparable non-agricultural activities. That comparison suggests a great importance for non-

⁴¹ *Non-Domestic Rating and Hardship Relief for Businesses Affected by Foot and Mouth Disease: Guidance for Local Authorities and Ratepayers in England*, DETR, 27.3.1, available at: www.local.detr.gov.uk/finance/busrates.htm

⁴² Rates payments are collected by local authorities and passed to central government, who redistribute this money to authorities in line with the local government finance settlement.

⁴³ *Non-Domestic Rating and Hardship Relief for Businesses Affected by Foot and Mouth Disease: Guidance for Local Authorities and Ratepayers in England*, op cit

⁴⁴ MAFF, *Farm Incomes in the UK 1999/2000*, Table 2.1

⁴⁵ MAFF, *Agriculture in the UK 2000*, p 60 and Glossary

agricultural activities, especially in a year of low profitability. On the other hand, that comparison also neglects the costs of non-farm activities. We do not know how much of the income from them goes into related costs.

Until 2001, one could contrast the steady increase in non-agricultural activities with the annual variations in TIFF, suggesting that such activities helped to cushion farming against a decline in farm incomes. The FMD outbreak has, of course, reduced both sources of income at the same time, particularly in Devon and Cumbria.

B. Factors limiting diversification

Finance is almost always important in diversification, since investment is almost inevitable, even if only to convert a barn. Farm incomes have been at very low levels over the past few years, particularly for livestock farmers and hill farmers. There was a serious problem even before the foot and mouth disease (FMD) outbreak. The outbreak has resulted in increased borrowing. The British Bankers' Association (BBA) said its members increased their lending to the farming sector by a net £47m in March 2001.⁴⁶

Location is clearly important for all leisure or tourism activities. Farmers in some areas of the country have the opportunity to attract tourists, while farmers in other areas have much less opportunity, however hard they try.

Another potential problem is that farmers and their spouses may be skilled in farming but may not necessarily be good at running businesses. One of the key problems for small businesses is estimating the size of the market.

In 1987 a Farm Diversification Grant was introduced, but a well-known farmer and agricultural journalist commented critically:

Nevertheless the possibilities for farm diversification continue to attract publicity out of all proportion to their relevance or potential. Most enjoy a brief period of intense interest and high profits for their originators before the necessarily limited new markets become oversupplied. All over Britain there is a scattering of failed worm farmers; deserted pick-your-own fields; empty farm house holiday bedrooms; and rabbit farms which seemed like a good idea once but proved unprofitable when the animals failed to breed like rabbits are supposed to do.⁴⁷

C. What the Government has done to help Farm Diversification

The Agenda 2000 reform of the EU Common Agricultural Policy included the Rural Development Regulation, bringing together a range of schemes unrelated to the overall

⁴⁶ "Disease-hit farmers borrowing more", *BBCNews Online*, 23 April 2001

⁴⁷ David Richardson, "Beating ploughshares into Golf Clubs", *Financial Times*, 19 July 1988

level of agricultural production, including the following: measures to encourage diversification; agri-environmental schemes; early retirement schemes; support for hill farmers. As part of the Rural Development Plan made under that Regulation, the Government has introduced a new Rural Enterprise Scheme with expenditure rising from £8m in 2001/02 to £36m in 2004/05; a total of £152m over the Programme period of seven years for providing targeted assistance to support the development of more sustainable, diversified, enterprising rural economies and communities.⁴⁸ No doubt those schemes will be very useful to some farmers. However, the sums of money are very small and they would not do much to compensate for cash flow problems.

It is often suggested that the UK Government should finance a rural development scheme, rather than simply support agriculture. In general, it is unrealistic to expect the UK Government to make changes when so much is laid down by the Common Agricultural Policy. That policy might one day be reformed, but probably not in the direction wanted by the UK. However, the Agenda 2000 reform did provide that the Rural Development Regulation could be partly financed by a reduction in other agricultural support payments. The UK Government has used this facility to a modest extent, as shown in the press notice explaining the English Rural Development Plan:

The third source will be the redirection, or modulation, into the RDR of a small percentage of £1.6 billion in direct production subsidies paid to UK farmers under the CAP commodity regimes. In 2001, 2.5% of payments will be modulated, this will rise to 3% in 2002, 3.5% in 2003 and 2004 and 4.5% in 2005 and 2006. Modulation will apply at a flat rate and to all direct subsidies to farmers under the CAP. All of this money will be redirected to expenditure through the Rural Development Regulation.⁴⁹

However, the potential scope for such redirection might be greater, as is shown in the MAFF summary of the Agenda 2000 measures, under discretionary horizontal measures:

Reduction of direct payments by up to 20% according to labour force criteria, overall prosperity criteria, and/or the total amount of aids received by farmers...Savings to be available to member States as additional Community support for agri-environmental and forestry measures, Hill Livestock compensatory Amounts and early retirement schemes.⁵⁰

Even if the money could not go directly to a diversification scheme, there might be a way of using it in a scheme for hill farmers that aided diversification. However, the agreement of the European Commission would have to be obtained.

⁴⁸ MAFF News Release 349/00, *New Direction for Agriculture: Nick Brown launches England Rural Development Plan*, 3 October 2000

⁴⁹ MAFF News Release 435/99, *Nick Brown announces a New Direction for Agriculture*, 7 December 1999

⁵⁰ MAFF, *CAP Reform Agreement*, 1 April 1999, p 5

D. Town and Country Planning

The planning system presents a major difficulty for farm diversification going beyond the stage of farm shops or barn conversion for holiday lets. The basic principle of planning control for the countryside has been to prevent isolated developments away from centres of population, unless necessary for agricultural or forestry use. Although the wording of planning policy guidance has steadily been amended to be more favourable towards farm diversification, farmers often complain that in practice they cannot receive planning permission for conversion of existing farm buildings for other activities.

Paragraph 2.3 of the Planning Policy Guidance for the Countryside (PPG7) makes some general points:

The guiding principle in the countryside is that development should both benefit economic activity and maintain or enhance the environment. Rural areas can accommodate many forms of development without detriment, if the location and design of development is handled with sensitivity. New development should be sensitively related to existing settlement patterns and to historic, wildlife and landscape resources. Building in the open countryside, away from existing settlements or from areas allocated for development in development plans, should be strictly controlled. In areas statutorily designated for their landscape, wildlife or historic qualities, policies give greater priority to restraint.

Paragraph 2.4 may be even more important:

Development plans are means by which development to sustain economic activity in rural areas can be promoted whilst protecting the countryside. Section 54a of the Town and Country Planning Act 1990 provides that development control decisions must be made in accordance with the development plan unless material considerations indicate otherwise. Development plans should state the criteria to be used in assessing proposals for development in all areas of countryside, whether inside or outside nationally designated areas. They should consider how any acceptable development would best respect or enhance the character of the countryside.⁵¹

The Planning Guidance for the Countryside also has some encouragement for diversification and rural enterprise:

3.8 The range of industries that can be successfully located in rural areas is expanding. Many commercial and light manufacturing activities can be carried on in rural areas without causing unacceptable disturbance. There are attractions

⁵¹ Department of the Environment, *Planning Policy Guidance: The Countryside*, PPG7, February 1997

to the firms and their staff in a countryside environment, and there are benefits to the local economy and employment. These firms also help to bring new life and activity to rural communities, and so are generally welcomed and quickly assimilated. Local planning authorities should bear in mind the vital role of enterprises, especially small-scale enterprises, in promoting healthy economic activity in rural areas, which can contribute to both local and national competitiveness.

3.9 Local planning authorities should make provision in development plans for commercial and industrial development....

In March 2001, the government announced amendments to PPG7, so as to give more encouragement to farm diversification, perhaps reflecting the concerns felt by farmers that in practice their planning applications for diversification were being rejected. The main change was a replacement of paragraph 3.4 (which itself encouraged farm diversification) by two new paragraphs taking account of the Rural Development Plan.

'3.4A The Government's long term strategy for farming was set out in "A New Direction for Agriculture" published in December 1999 and was taken a step further with the launch of the "Action Plan for Farming" in March 2000. The England Rural Development Programme (ERDP) was launched in October 2000. Together, these are providing opportunities to help the industry become more competitive and diverse and to promote environmental aims. Farming continues to make a significant contribution to the economy of rural areas but increasingly diversification into non-agricultural activities is vital to the continuing viability of many farm businesses. Local planning authorities should set out in their development plans the criteria to be applied to planning applications for farm diversification projects. Local planning authorities should be supportive of well-conceived farm diversification schemes for business purposes that are consistent in their scale with their rural location.

'3.4B The ERDP will, through the Rural Enterprise Scheme (RES) and the Processing and Marketing Grant (PMG), provide support for selected diversification proposals, subject to competition. Success in securing RES and PMG funding may depend upon obtaining prior planning permission for diversification proposals, but the potential availability of any grant funding is not a material consideration when determining a relevant planning application. Further guidance on development related to agriculture (other than that covered by permitted development rights) and to farm diversification is given in Annex C, which includes a non-exclusive list of examples of potential farm diversification. It is usually preferable for farm diversification schemes to re-use good quality existing buildings and put them to a new business use, rather than build new buildings in the countryside. New buildings, either to replace existing buildings or to accommodate expansion of enterprises, may also be acceptable provided that they satisfy sustainable development objectives and are of a design and scale appropriate to their rural surroundings.⁵²

⁵² DETR News Release 155, Farmers Get Greater Flexibility in New Planning Guidance, 21 March 2001

The DETR News Release of March 2001 also describes an amendment to the passage in the planning policy guidance on preserving the best agricultural land.

It may seem to farmers that planners are hindering their legitimate activities by interpreting the rules too strictly. However, there may be planning considerations arguing against farm diversification and conversion of farm buildings in particular cases. One common problem is access. A farmer wishing to attract visitors to leisure activities, for example, may only have access along a narrow road more suitable to occasional farm vehicles. Planners also take account of the long-term consequences of the use of land, rather than of the financial needs of the owner. To take another example, a successful diversification (such as paint balling) might become completely separated from the farm, bringing some income from the sale for the current farmer. However, that might leave an enterprise located somewhere where planning permission would not normally have been granted.

One fear of planners is that isolated development will lead to other development nearby, leading in an extreme case to a cluster of development more extensive than originally expected. Another, different, fear is that a small amount of development in the wrong location in the countryside could spoil a large area of hitherto unspoilt countryside.

A report written for the Council for the Protection of Rural England in 1994 argues that increased leisure use of the countryside presents potential problems:

The impacts of new leisure activities and developments in the English countryside, and the conflicts arising from them, demand far more systematic public and political attention than hitherto. Cultural and environmental priorities of national significance are increasingly at stake. Factors such as continuing demographic change, changing government policies towards agriculture and rural development, the enhanced economic significance of tourism, and the new public importance of environmental issues and concerns are changing the context in which leisure-related developments are now emerging in rural England – reinforced by the heightened social and cultural significance of leisure commitments for contemporary individuals in modern industrial societies.

A number of examples – including Holiday Villages, Mountain Bikes, Theme Parks, Golf Courses, War Games, Powerboats and Noise, Access to Private Land, Coastal Marinas and Inland Water Sports – illustrate representative physical impacts on the countryside from current leisure activities. Thousands more acres of previously undeveloped land are likely to be affected over the coming decade. This is an issue of major significance in its own right. Moreover, as conventionally presented, important cultural issues implicit in such conflicts are still inadequately acknowledged and represented.

The public agencies concerned with countryside leisure and tourism – including the English Tourist Board, Countryside Commission and Sports Council – are responding to these developments with new collaborative “partnership” approaches to “managing” conflicts. Despite useful initiatives, there is still

inadequate recognition of the complexity of public attitudes towards leisure uses of the countryside – particularly the potential for future conflicts on issues such as car use, public access and new physical tourism facilities. The statutory land use system, with suitable adjustments, has a major role to play, though its inherent limitations in this area need clearer recognition...

The interactions of these developments with the current state and expectations of the UK tourism industry are likely to be increasingly important...Despite promising initiatives, the industry's "environmental" understanding continues to be limited, and there is a serious risk that current trends – for example towards exploiting "the heritage" in a homogenising fashion – could prove counter-productive for the competitive health of the tourism industry itself...⁵³

⁵³ Gordon Clark et al for the CPRE, *Leisure Landscapes*, 1994, pp6-7