

REPORT TO: POLICY AND RESOURCES COMMITTEE ON 23RD APRIL, 2003

SUBJECT: NON-DOMESTIC RATES - WHITEFISH INDUSTRY HARDSHIP SCHEME

BY: CHIEF FINANCIAL OFFICER

1. Reason for Report

1.1 The purpose of this Report is to inform Members of the Non-Domestic Rates hardship scheme to meet the needs of businesses involved in, or connected to, the whitefish sector which are currently encountering genuine hardship as a result of changes within that industry.

2. Background

2.1 First Minister's Announcement

2.1.1 Concerns over whitefish stocks has led to the introduction of measures to preserve them. At a meeting of the European Union's Fisheries Council in December 2002, it was agreed there would be substantial cuts in whitefish quotas. In addition to this quota restriction, a days-at-sea limit of 15 days was also implemented.

2.1.2 On 11th March, 2003, the First Minister announced the enhancement of Scottish Executive support to Scottish local authorities with a view to assisting them to provide rates relief to businesses in fishing communities experiencing genuine hardship as a result of the changes in the whitefish sector.

2.1.3 The Scottish Executive identified the Scottish ports which are most heavily dependent on landings of whitefish; the Moray port of Buckie, which the Scottish Executive Environment and Rural Affairs Department calculates handles 0.8% of all Scottish whitefish catches,¹ is included in the list.

2.1.4 The list of Scottish ports identified by the Scottish Executive as being most involved in the whitefish sector is reproduced for Members' information in **APPENDIX A** to this Report.

2.1.5 The Scottish Executive calculates that "around 94 per cent of businesses affected by the reduction in catches will be eligible to apply for the new relief".

¹ Annex A - Scottish Executive Finance and Central Services Department, Finance Circular No.3/2003.

2.2 The Moray Council's Existing Hardship Policy

- 2.2.1 The Council has a policy on the treatment of applications from ratepayers for hardship relief under the terms of Section 156 of the Local Government *Etc.* (Scotland) Act 1994.
- 2.2.2 Section 156 of the Local Government *Etc.* (Scotland) Act 1994 makes available to local authorities discretionary powers to grant relief from the payment of Non-Domestic Rates on the grounds that the ratepayer would suffer hardship.
- 2.2.3 Section 156 of the 1994 Local Government Act states:
- “Every rating authority may, on the application of any person liable to pay any rate levied by the authority, remit payment (in whole or in part) of the rate if the authority are satisfied that:
- (a) the person 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 persons liable to pay Council Tax set by them.”
- 2.2.4 Any award made under the terms of the discretionary powers made available to local authorities in Section 156 of the Local Government *Etc.* (Scotland) Act 1994 will be partially funded by the Scottish Executive. The Scottish Executive will reimburse to the Council, via the Revenue Support Grant, 75% of any such award of hardship relief. The remainder of the award of relief will be funded directly by local authority's Council Taxpayers.
- 2.2.5 A duty to have regard for the interests of Council Tax-payers when determining entitlement to hardship relief is also placed on the Council by the terms of Section 156 of the 1994 Local Government Act. Since Council Taxpayers will have to partially fund any award of relief, the Council is legally required to balance their interests against the interests of the ratepayer seeking an award of hardship relief.
- 2.2.6 On 25th March, 1996, the Moray Council's Policy and Resources Committee formally adopted the Hardship Relief Policy submitted to it for consideration by the Chief Financial Officer. This policy required any applicant to demonstrate hardship and it established that any such application for relief would be considered on its individual merits by the Committee.
- 2.2.7 No award of relief has been made by the Moray Council under the terms of its Hardship Policy.

3. Whitefish Industry Hardship Scheme

3.1 General

- 3.1.1 Businesses currently involved with, or connected to, the whitefish sector may be encountering hardship due to circumstances which are entirely beyond their control. These businesses are encountering a unique set of circumstances which will not be faced by any other business which is likely to seek assistance from the Council under the terms of its existing Hardship Policy.
- 3.1.2 The Scottish Executive's enhanced support of local authorities' existing hardship schemes is a mechanism by which assistance can be provided to businesses which are encountering genuine hardship.
- 3.1.3 Businesses which are directly involved with the whitefish sector at one of the ports identified by the Scottish Executive and businesses with connections to the whitefish sector at one of the ports identified by the Scottish Executive will be eligible to seek relief if suffering genuine hardship.
- 3.1.4 Only businesses which are encountering genuine hardship will be entitled to make an application for relief. Businesses which are encountering a temporary loss of income will not be entitled to make an application.
- 3.1.5 No monies are being remitted up-front to the Council to fund awards of hardship relief. The Scottish Executive will reimburse the Council with the majority of the cost of making any such award of relief by a subsequent adjustment to the Revenues Support Grant.
- 3.1.6 The Scottish Executive will fund 95% of awards of hardship relief made to qualifying businesses involved in or connected to the whitefish sector. The balance of any such award of relief will be funded by Council Tax-payers.
- 3.1.7 The level of support by the Scottish Executive for awards of hardship relief made to businesses involved in or connected to the whitefish sector represents an enhancement to the usual funding arrangement for awards of hardship relief. The usual funding arrangements were outlined in detail in point 2.2.4, above.
- 3.1.8 Enhanced funding will only be available to the Council for awards of relief made to businesses suffering hardship which are in occupancy of premises with a rateable value of up to £50,000.
- 3.1.9 Any award of hardship rates relief for a business occupying a premises with a rateable value in excess of £50,000 will require to be funded by Council Tax-payers without enhanced reimbursement of the award by the Scottish Executive.
- 3.1.10 The enhanced funding will only be made available for a six-month period from 1st April, 2003.

3.1.11 Any award of hardship relief made for a period after 1st October, 2003, will require to be made under the terms of the existing financial arrangements, and will be funded without the benefit of the enhanced reimbursement of the award by the Scottish Executive.

3.2 Identification of Potential Eligibility

3.2.1 In order to qualify for consideration for assistance under the terms of this enhanced hardship scheme, applicants will require to satisfy the following criteria:

- (a) demonstrate that the applicant's business is suffering genuine hardship as a result of the reduction in Total Allowable Catches within the whitefish sector;
- (b) demonstrate there is a connection between the applicant's business and the whitefish sector, and that the reduction in Total Allowable Catches within the whitefish sector has had implications for the business;
- (c) demonstrate there is a connection between the applicant's business and one of the whitefish ports identified by the Scottish Executive;
- (d) demonstrate that the applicant's business occupies premises with a rateable value of up to £50,000.

3.2.2 Businesses which consider that they are suffering hardship will be invited to complete an application form. Examination of the declarations made in this form, and any supporting evidence, will enable the Council's Taxation Manager to determine if the criteria listed above have been satisfied.

3.3 Determination of Entitlement

3.3.1 All completed and satisfactory applications for hardship relief from businesses currently involved with, or connected to, the whitefish sector will be submitted by the Chief Financial Officer to this Committee for consideration.

3.3.2 The Committee will require to consider each application for hardship relief on its individual merits.

3.3.3 The Committee will require to have special consideration for a number of factors when examining the applications submitted to it for a decision:

- (a) whether the business is suffering genuine hardship or whether it is only suffering a temporary loss in income;
- (b) whether it is in the interests of Council Tax-payers to make an award of relief; and
- (c) if it is decided that it is appropriate to make an award, the amount of relief that should be awarded and the duration of any such award.

3.3.4 The decision of the Committee on entitlement to hardship relief will be final.

- 3.3.5 The unique nature of the circumstances of businesses involved with, or connected to, the whitefish sector means that any decision of the Committee on entitlement to hardship relief will not set a precedent for any subsequent applications for assistance under the terms of the Council's existing Hardship Policy.

4. Financial, Staffing and Environmental Implications

4.1 Financial Implications

- 4.1.1 There will be a cost to the Council of any award of hardship relief made under the terms of the Scottish Executive's enhanced hardship scheme. The Executive has undertaken to reimburse the Council with 95% of any award of hardship relief. Council Tax-payers will fund the balance of any such award.
- 4.1.2 If the Council chooses to make an award of hardship relief outwith the period in which the Scottish Executive will make an enhanced contribution, or it chooses to make an award of hardship relief to a business which does not satisfy the criteria specified by the Scottish Executive but does meet the conditions of the Council's previously-agreed hardship relief policy, the costs to be borne by Council Tax-payers will be higher, and these have been outlined in detail in point 2.2.4, above.

4.2 Staffing Implications

- 4.2.1 There are no staffing implications to this Report.

4.3 Environmental Implications

- 4.3.1 There are no environmental implications to this Report.

5. Corporate Plan

- 5.1 There are no implications for the Corporate Plan in this Report.

6. Consultations

- 6.1 No consultation has been carried out in the preparation of this Report.

7. Recommendations

7.1 It is recommended that the Committee:

- (a) note the content of this Report; and**
- (b) authorise the Chief Financial Officer to administer the Scottish Executive's enhanced hardship scheme in the manner set out in this Report.**

Author of Report: James Taylor, Taxation Manager - Ext. 3160
Background Papers: Policy and Resources Committee – 25th March 1996.
Scottish Executive Press Release, 11th March 2003 – SEFM110/2003
Scottish Executive Finance Circular No.3/2003
Ref: JGT/LJC/

APPENDIX A

**TABLE SHOWING FISHING AREAS AFFECTED
BY REDUCTION IN TOTAL ALLOWABLE CATCHES²**

Area	% of total Scottish Whitefish catch	% of total value of fish landed which represent Whitefish
Aberdeen	9.9	82
Buckie	0.8	29
Eyemouth	1.2	41
Fraserburgh	8.0	33
Kinlochbervie	7.2	92
Lochinver	7.5	95
Mallaig	2.5	30
Peterhead	33.0	73
Shetland	9.6	43
Ullapool	4.7	70
Wick	13.2	78
TOTAL	97.6	-

(Source: Scottish Executive Environment and Rural Affairs Department)

² Annex A – Scottish Executive Finance and Central Services Department, Finance Circular No.3/2003.