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*C. M. L.*

CHAIRMAN FILE

MB 29/12

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Lagan House  
79 Victoria Street  
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BT1 4PA**

Mr D Faulkner  
HM Treasury  
Parliament Street  
LONDON  
SW1P 3AG

23 December 1997

*Dear David*

#### EX-GRATIA PAYMENT TO FORUM CHAIRMAN

I am writing to seek agreement to make an ex-gratia payment to the Chairman of the Northern Ireland Forum for Political Dialogue in recognition of the onerous and stressful nature of his duties.

#### Background

A Forum comprised of the delegates returned by an election in May 1996 was established under the Northern Ireland (Entry to Negotiations, etc) Act 1996. The Chairman of the Forum, Mr John Gorman, was initially appointed as provided for in the Act by the Secretary of State. This was not intended to be a paid position nor does the Act specifically provide for the Chairman to be paid. His first primary duty was to oversee the election of a permanent Chairman. The Act required support by 75% of the membership and given the size and disposition of party groups it proved impossible to find a candidate on whom the parties could agree. Consequently Mr Gorman as the appointed Chairman continued to preside. After a year the members decided to elect him to the post. Until recently he was content to claim the loss of earnings allowance available to all members of the Forum (£100 per day before tax) but has now requested that we consider some recompense

beyond this allowance. We have been considering the request sympathetically and taking legal advice from HOLAB.

### Legal Advice

The kernel of the advice is that Section 6 of the Act provides authority for payments at different rates to delegates but makes no provision for a specific rate for the Chairman. It is possible to devise criteria which would theoretically apply to all members but in practice would allow us to distinguish the Chairman from other members, thus justifying a greater allowance to Mr Gorman.

### Departmental View

We consider that if such criteria were established so that only the Chairman would be entitled to an additional payment we run a substantial risk that other members, particularly the Chairmen and Vice Chairmen of Committees, would argue that this was creating an artificial distinction not supported by the specific provision of the Act, and therefore leave us liable for legal challenge. Conversely if the criteria were drawn more widely they would likely be able to argue that to some degree they also meet the criteria and should therefore be paid a similar additional amount. This would result in greatly increased cost and go well beyond our present consideration or intent. We are conscious of the particular difficulties which have attended Mr Gorman's Chairmanship. He has regularly had to preside over discussions which were ill-tempered, fractious and abusive. His application of the rules of proceedings has attracted a degree of acrimony from the membership directed personally at himself. Notwithstanding these stresses and strains Mr Gorman continues to steer the Forum from the Chair. In light of all the foregoing the Department would wish to pay Mr Gorman a modest sum of £10,000 (£5,000 now for the first year of his Chairmanship and £5,000 for the second year when the Forum finishes next May).

## Conclusion

We appreciate that ex gratia payments are ordinarily payable only when no statutory provision is available to make them otherwise. It is our view that the legal advice in this instance does not provide us with sufficient warrant to make payment to Mr Gorman exclusively without the threat of legal challenge. We therefore consider that some recognition of the Chairman's role should be given outside the terms of the Act, hence our preferred option of an ex gratia payment. This would reflect our view that the extent, nature and stress of the work only became apparent after the Forum was in operation and was not, regrettably, foreseen when the Act was drafted, hence the absence of any specific provision to reflect the Chairman's particular contribution. As we believe our proposal can only be met by an ex-gratia payment we require Treasury's approval. I would be grateful if you would consider the above and confirm your approval to our suggested course of action. I am of course happy to discuss.

*pp R J Jones*

MARY E MADDEN

cc Mr Carson  
Mr Ferguson  
Mrs Madden