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The Social Security (Uprating of Benefits) Bill 2021-2022: Progress of the Bill

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Summary

The Social Security (Uprating of Benefits) Bill 2021-22 was published on 8 September. The Bill as it was introduced, would suspend the earnings element of the State Pensions 'triple lock' normally used for the annual uprating of State Pensions and some other benefits. This would apply for the tax year 2022/23 only.

This would mean that from April 2022, the basic State Pension, the full rate of the new State Pension, the Standard Minimum Guarantee in Pension Credit, and survivors' benefits in Industrial Death Benefit, increase by no less than 3.1% (the increase in the Consumer Price Index (CPI) over the twelve months to September 2021).

What is the triple lock?

The triple lock is a Government commitment to increase State Pensions each year in line with earnings, prices, or 2.5%; whichever is highest.

The economic disruption caused by the coronavirus outbreak led to the fall in average earnings in mid-2020, but in 2021 there has been a rebound in earnings as the economy has opened up. The earnings growth figure that would have been used for the triple lock this year was 8.3%. This is measured by the year-on-year increase in the Average Weekly Earnings (AWE) index for May to July 2021. The Government states, however, that this year's earnings measure is "skewed and distorted" because of the effects of the coronavirus pandemic on the labour market and is "not a real-life basis" for uprating State Pensions this year.

Timetable for the Bill

The Bill is being fast-tracked through Parliament. It completed all its Commons stages – without being amended – on 20 September 2021. Second Reading in the Lords was on 13 October, and the Lords Committee and Lords Report stages were on 26 October and 2 November respectively. The Lords Third Reading was on 8 November.

The Government states that the Bill must receive Royal Assent by mid-November to meet departmental deadlines to implement increases from April 2022.

Responding to criticisms that no impact assessment was published with the Bill, on 5 November the Department for Work and Pensions (DWP) published an Impact Analysis for the Social Security (Uprating of Benefits) Bill.

Amendments to the Bill

No Government amendments were tabled during the Commons or Lords stages.

At Report Stage in the Lords, an amendment was moved by the Conservative Member and former Pensions Minister, Baroness Altmann, to maintain the earnings element of the triple lock for the 2022 uprating, but instead using an adjusted earnings measure taking into account distortions caused by the pandemic. The amendment was agreed by 220 votes to 178.

The Government opposed the amendment on the grounds that no estimate of "underlying" earnings growth is robust enough to form the basis for an uprating decision.

Analysis by the Office for National Statistics (ONS) suggests that underlying earnings growth, adjusting for distortions caused by economic effects of the coronavirus pandemic, in the 12-month period to May-July 2021 may have been between 3.6% to 5.1%. However, the ONS emphasises uncertainty around this range.

In the Bill's explanatory notes (PDF 226 KB), the DWP estimates that uprating State Pensions and the related benefits from April 2022 by the mid-point of the ONS's range (4.4%) would cost an additional £1.3 billion in 2022/23, compared with uprating in line with prices. This would rise to £1.7 billion per annum in 2026/27.

The Commons is due to consider the Lords amendment to the Bill on Monday 15 November. The Government is seeking to overturn the amendment.

Further information on the Bill can be found on the Bill page on Parliament.uk, and in the following briefings published ahead of the Commons and Lords Second Reading debates:

- Social Security (Uprating of Benefits) Bill 2021-22, Commons Library briefing CBP 9311
- Social Security (Up-rating of Benefits) Bill, Lords Library briefing LLN-2021-0025

1 Background

The Social Security (Uprating of Benefits) Bill 2021-22,[1] published on 8 September 2021, relates to the uprating in 2022/23 of the basic State Pension, the full amount of the new State Pension, the Standard Minimum Guarantee in Pension Credit, and survivors' benefits in Industrial Death Benefit.[2]

The Bill's purpose is to suspend the earnings element of the 'triple lock' so that State Pensions and the other amounts will increase by either inflation or 2.5% (whichever is greater) at the April 2022 benefits uprating. This would only apply for the tax year 2022/23.

The measure of price inflation used for the triple lock is the increase in the Consumer Price Index (CPI) over the twelve months to September. The September 2021 CPI was 3.1%. If the Bill receives Royal Assent without amendment, State Pensions and the other amounts listed above must therefore increase by no less than 3.1% from April 2022.

1.1 The State Pension system

A new State Pension was introduced from 6 April 2016 for people reaching State Pension age (SPA) after that date. People who had already reached SPA continue to get their pension under the 'old rules' outlined below.[3] The full rate of the new State Pension in 2021/22 is £179.60 a week.

The State Pension for people who reached State Pension age before 6 April 2016, has two tiers:[4]

- The basic State Pension (BSP) is a contributory flat-rate benefit to which people built up entitlement based on their National Insurance (NI) record. People need 30 'qualifying years' to get the full amount (£137.60 a week in 2021/22). A qualifying year is one in which a person has paid, been treated as having paid, or been credited with, enough NI

[1] The title of the Bill is in fact the Social Security (Benefits Up-rating) Bill (hyphenated) but in this briefing we refer to Uprating, since the unhyphenated term is more commonly used.

[2] Industrial Death Benefit was a benefit for people whose spouse died as a result of an industrial accident or prescribed disease. It was abolished for deaths occurring after 1988 and no claims had been made for many years, but some widows or widowers continue to receive payments.

[3] Pensions Act 2014, s1

[4] Social Security Contributions and Benefits Act 1992, s44

Contributions (NICs) for it to count.[5] People with fewer qualifying years get a proportionate amount.[6]

- The additional State Pension depended on the earnings or deemed earnings during a person's working life since 1978. People accrued entitlement through the State Earnings Related Pension Scheme (SERPS) between 1978 and 2002 and the State Second Pension (S2P) from 2002 onwards.[7] It was possible to contract-out into a private pension scheme that met set requirements, in return for which the employee (and their employer) paid a lower rate of NI.[8]

Other elements of the State Pension include 'deferred retirement increments', which are additional amounts to which people can build entitlement if they defer claiming beyond State Pension age.[9]

Pension Credit, the main means-tested benefit for pensioners, was introduced in October 2003, replacing Income Support for pensioners.[10] The Guarantee Credit element provides financial help for people who have reached State Pension age and whose income is below their 'appropriate amount', which is the amount the Government thinks a person or couple needs to live on each week based on their circumstances. It is made up of a Standard Minimum Guarantee (£177.10 a week for a single person and £270.30 a week for a couple in 2021/22) and additional amounts for severe disability, caring responsibilities and liability for certain housing costs.[11]

For people who reached State Pension age before 6 April 2016, there is also a **Savings Credit element to Pension Credit**. The aim of this is to reward people over 65 who have modest levels of 'qualifying income' (including state, occupational and personal pensions) above the Savings Credit 'threshold', which is £153.70 a week for a single person and £244.12 a week for a couple. These people will receive up to a maximum weekly amount of £14.04 for a single person and £15.71 for a couple in 2021/22.[12]

1.2 Uprating the State Pension and other benefits

'Uprating' is the annual mechanism by which the Secretary of State for Work and Pensions is required by law to conduct a review of applicable benefit and pension rates each year to determine whether they have retained their value in relation to the general level of prices or earnings. Where they have not

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5 Ibid s122
6 Ibid s44 and Sch 3
7 Ibid. ss44, 44A-C and 45
8 A state pension for the 21st century, DWP, Cm 8503, April 2011
9 State Pension deferral, Commons Library briefing CBP 2868, May 2020
10 State Pension Credit Act 2002; State Pension Credit Regulations 2002 (SI 2002/1792)
11 State Pension Credit Act 2002, s2
12 See Pension Credit: current issues, Commons Library briefing CBP 8135, August 2020

retained their value, the law provides that the Secretary of State is required to (or in some instances may) 'uprate' their value.[13]

Uprating requirements are provided for in the Social Security Administration Act 1992.

Different uprating arrangements apply to the different parts of the State Pension. Those parts that must rise at least in line with **earnings** include the basic State Pension and the full rate of the new State Pension, the Standard Minimum Guarantee in Pension Credit, and survivors' benefits in Industrial Death Benefit.

Elements that must rise at least in line with **prices** include the Additional State Pension, deferred retirement increments (paid as a reward for delaying a claim beyond State Pension age), and 'protected payments' paid to recipients of the new State Pension for people who had already built up more than the full amount in April 2016.[14]

The Secretary of State has discretion as to the measures of earnings and prices to use.[15] Different measures have been used over time, but since 2011 the uprating process has used the September Consumer Prices Index (CPI) figure for the rise in prices, and the May-July Average Weekly Earnings (AWE) figure for the growth in earnings.[16]

The annual increases in benefits and tax credits are implemented by statutory instrument called a Social Security Uprating Order*.* This is subject to the affirmative resolution procedure, which means it is laid in draft and must be approved by both Houses of Parliament to become law.[17]

The rates are generally announced in November, and the increases take effect either in the week beginning with the first Monday in the following tax year, or on such earlier date in April as may be specified in the Order.[18] The reason for this timetable is that the uprating process must begin six months in advance, to enable the Department for Work and Pensions to meet IT delivery deadlines.[19]

Further information on the statutory framework governing the uprating of benefits and pensions can be found on section 4 of Commons Library briefing, Welfare Benefits Uprating Bill.

13 Adapted from Bill 185 2021-22-EN, para 2

14 See Deferred retirement increments, Commons Library briefing CBP 2868, May 2020; State Pension FAQs, Commons Library briefing CBP 7981, March 2021, p24

15 Social Security Administration Act 1992, s150(2) and s150A(8)

16 Bill 185 2021-22-EN, para 3

17 House of Commons, Delegated Legislation – A brief guide, August 2011

18 Social Security Administration Act 1992, s150(10)

19 Bill 185 2021-22-EN, paras 19-21; HC Deb 5 July 2010 c109W. See also HC Deb 14 April 2000 cc313-4W

1.3 The triple lock in 2022/23

The 'triple lock' or triple guarantee refers to the commitment made in the Coalition Government's Programme for Government to uprate the basic State Pension by the highest of earnings, prices or 2.5%.[20]

There was cross-party support for the triple lock in manifestos for the 2019 General Election.[21] The Conservative Party's 2019 manifesto included a commitment to keep the triple lock.[22] This was confirmed in subsequent parliamentary debates.[23]

The economic disruption caused by the coronavirus outbreak led the Government to intervene to ensure it met its commitment to apply the triple lock, so that State Pensions increased from April 2021. To do this, the Government introduced the Social Security (Uprating of Benefits) Act 2020 to enable the basic and new State Pensions, and the Standard Minimum Guarantee in Pension Credit, to be uprated in 2021/22.

This was in response to the fall in average earnings in mid-2020 which, without Government intervention, would have meant that most State Pension rates would have remained frozen in 2021/22.

In 2021, the opposite is the case with a strong rebound in earnings. The Department for Work and Pensions (DWP) estimated that earnings growth for May to July 2021 (the reference period for uprating) would be between 8% and 8.5%. It estimated that applying the existing legislation on uprating would mean additional spending of around £4-5 billion on the basic and new State Pension in 2022/23, compared with uprating by the higher of 2.5% or expected price inflation.[24]

Following negative earnings growth in mid-2020, the Average Weekly Earnings (AWE) index has risen sharply. The year-on-year increase in the AWE index for May to July 2021 is 8.3%.[25] This is in line with the DWP's expectation when it published the Bill that the earnings growth figure would be between 8% and 8.5%.[26]

[20] The Coalition: Our Programme for Government (PDF 475 KB), HM Government, May 2010

[21] Labour Party election manifesto 2019; Liberal Democrat election manifesto 2019/our plan to build a fair society/support for pensioners; SNP general election manifesto 2019/fair pensions; DUP election manifesto 2019

[22] Our Plan - Conservative Party election manifesto 2019

[23] HC Deb 10 Feb 2020 c671 [Will Quince]; HC Deb 13 Feb 2020 c997 [Jacob Rees Mogg]

[24] Legislation to ensure fairness for pensioners and taxpayers, DWP press release, 7 September 2021

[25] ONS dataset EARN01: Average weekly earnings (14 Sept 2021 edition) table 1, data series KAC3

[26] Bill 158 2021-22-EN, para 4

1.4 The Bill

As evidence of a spike in the Average Weekly Earnings figures grew in summer 2021, speculation grew that the Government might suspend the earnings element of the triple lock for the April 2022 State Pensions uprating.[27]

The Government formally announced it would introduce this Bill in a statement to the House of Commons made by the Secretary of State for Work and Pensions, Thérèse Coffey, on 7 September.[28] The Secretary of State said that while the labour market had shown strong signs of recovery and earnings had risen at an unprecedented rate, the statistics were a "distorted reflection" of earnings growth.

In light of the "irregular statistical spike in earnings" over the uprating review period, Thérèse Coffey said another one-year adjustment was needed.[29]

The Bill would set aside the earnings element of the triple lock so State Pensions would increase by 2.5% or inflation, whichever is higher. The Secretary of State said:

> That will ensure pensioners' spending power is preserved and protected from higher costs of living, but also ensure that as we are having to make difficult decisions elsewhere across public spending, including freezing public sector pay, pensioners are not unfairly benefiting from a statistical anomaly. At a time when we have made tough decisions to restore the public finances which have impacted working people, such as freezing income tax personal thresholds at current levels, that would not be fair. Setting aside the earnings element is temporary and only for one year. This means we can and will apply the triple lock as usual from next year for the remainder of this Parliament, in line with our manifesto commitment.
>
> While the earnings growth is a welcome sign of the country's overall economic recovery given the unique and exceptional events of the past 18 months, this year's measure is being skewed and distorted, reflecting a technical and temporary period of reverting or rebounding earnings—the differing cohorts of people who were retained or made redundant. As a result, the earnings measure is a statistical anomaly and is not a real-life basis for considering this year's uprating of state pensions.[30]

The Bill amends section 150A of the Social Security Administration Act 1992, which provides for basic State Pension and the full rate of the new State Pension and other benefits to rise at least in line with earnings.

[27] See for example 'Triple lock 'ticking time bomb' as earnings grow 8.8%', FT Adviser, 17 August 2021
[28] HC Deb 7 September 2021 cc185-193
[29] Ibid, c185
[30] Ibid, cc185-186

It completed all its Commons stages without being amended on 20 September 2021. At Report Stage in the Lords, however, an amendment was moved by the Conservative Member and former Pensions Minister, Baroness Altmann, to maintain the earnings element of the triple lock for the 2022 uprating. This would use an adjusted earnings measure taking into account distortions caused by the pandemic. The amendment was agreed by 220 votes to 178.

The Government opposed the amendment in the Lords on the grounds that no estimate of “underlying” earnings growth is robust enough to form the basis for an uprating decision. This is discussed further in section 4.1 on page 28 of this briefing.

The Commons is due to consider the Lords amendments to the Bill on Monday 15 November.

2 House of Commons stages

All House of Commons stages for the Bill were held on 20 September 2021.

2.1 Second Reading

Opening the debate, the Secretary of State for Work and Pensions, Thérèse Coffey, explained that the Bill had been introduced to address a "temporary statistical anomaly in wages" caused by pandemic-related distortions, and to avoid a spike in earnings from affecting pensions, while "preserving the spending power of pensioners and protecting them from increases in the cost of living".[31]

Dr Coffey stated that setting aside earnings in the uprating review for 2022/23 would last for one year only, and that the triple lock would be applied "in the usual way" for the remainder of the Parliament. She further noted that the Bill would ensure "in effect… a double-lock policy", with a rise by at least the higher of inflation or 2.5%.[32]

Responding for Labour, the Shadow Minister for Pensions, Matt Rodda, argued the Government was breaking a manifesto promise and using the coronavirus pandemic as an "smokescreen to break their word to pensioners and to abolish triple lock by the back door".[33] Although he emphasised Labour accepted that the pandemic had distorted earnings data, and were not calling for an 8% rise in the State Pension, he queried whether other methods could have been used to calculate earnings to avoid the anomaly in wage data.

The Shadow Minister said the Government had not presented the case for why it would not calculate underlying earnings growth over a long period of time and therefore maintain the link with earnings. He also asked the Government to set out other steps to protect low-income pensioners.[34]

Sir Iain Duncan Smith, a former Secretary of State for Work and Pensions, said he supported the decision to set aside temporarily the earnings component of the triple lock, but that he wanted the Government urgently to review its decision to withdraw the Universal Credit uplift.[35]

31 HC Deb 20 September 2021 c62
32 Ibid., cc61-62
33 Ibid., c62
34 Ibid., cc62-64
35 Ibid., cc64-66

Leader of the Liberal Democrats, Ed Davey put forward an amendment to decline to give a Second Reading to the bill. Liberal Democrat Spokesperson for Work and Pensions, Wendy Chamberlain, spoke for the amendment, acknowledging that there had been an anomaly in the earnings figures, but saying:

> …it represents a broken manifesto commitment made by the Government at the last general election, fails to address the impact of the pandemic on the two million pensioners living in poverty and fails to increase key benefits, such as making permanent the uplift to universal credit.[36]

She also asked why no impact assessment was published alongside the Bill looking at these issues.[37]

The SNP Spokesperson for Work and Pensions, David Linden, said his party backed the Liberal Democrats' amendment. He also said the Bill represented a broken manifesto commitment, and that it would negatively impact pensioners, particularly those living in poverty.[38]

Responding for the Government, the Minister for Pensions and Financial Inclusion, Guy Opperman, said that pensioner poverty rates were decreasing and noted that last year "when we had no obligation to do so, we took the dramatic and important decision to raise the state pension by 2.5%."[39] This was in reference to the Social Security (Uprating of Benefits) Act 2020 introduced in response to the fall in earnings in 2020 due to the pandemic, that enabled State Pensions and other benefits to be uprated in April 2021.

The Liberal Democrat amendment was defeated by 303 votes to 59. The House of Commons then voted to give the Bill its Second Reading by 300 votes to 55.[40]

2.2 Committee Stage and Report Stage

Both Labour and the SNP tabled new clauses for debate at the Committee Stage of the Bill.

Both new clauses called for the Government to publish, and lay before Parliament, a review of the legislation within six months of the Bill passing.

36 Order Paper for Monday 20 September 2021

37 The DWP subsequently provided an Impact Analysis of the Bill in advance of House of Lords Third Reading of the Bill, and which was deposited in the House of Lords Library on 5 November 2021. See section 3.4 of this briefing. HC Deb 20 September 2021 c70-2

38 Ibid., cc66-69

39 Ibid., 86-87

40 Ibid., cc88-93

The Labour Party's new clause, in the name of Debbie Abrahams, would have required the report to focus on the legislation's "public health and poverty effects". This proposed new clause was not moved to a vote.[41]

The SNP's new clause would have required the report to focus on the levels of poverty among pensioners in England, Wales and Scotland. This new clause was defeated by 304 votes to 58.[42]

The Government rejected the new clauses. Guy Opperman, the Minister for Pensions and Financial Inclusion, said that the Government already monitored and published information on poverty levels. He also reiterated that "this is a one-year only bill and that the triple lock will resume after its duration".[43]

Following the conclusion of the Committee Stage, the Report Stage was then agreed without debate or division.[44]

2.3 Third Reading

Opening the Third Reading debate, Labour's Shadow Minister for Pensions, Matt Rodda, repeated the charge that the Government was breaking a manifesto promise. He noted that there were several ways the Government could improve the Bill, including: being open about its analysis of earnings data; finding a way to address the statistical anomaly in increased earnings while maintaining the earnings link (such as using an average of earnings growth over a longer period of time), and committing to report on the impact on pensioners' incomes.[45]

SNP Spokesperson for Work and Pensions, David Linden expressed disappointment that the Government rejected the SNP amendment at Committee Stage. He also described the legislation as representing a broken promise and said the SNP believes that an "adequate state pension is essential to ensuring dignity and fairness in retirement".[46]

In closing the debate, Guy Opperman again emphasised that the Bill was a temporary measure for one year only, and reiterated the Government's ongoing commitment to support pensioners.[47]

Third Reading was agreed by 303 votes to 52.[48]

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41 HC Deb 20 September 2021 c96
42 Ibid., cc94-106
43 Ibid., cc98-9
44 Ibid., cc100-102
45 Ibid., c102
46 Ibid., 102-3
47 Ibid., c103
48 Ibid., cc104-6

3 House of Lords stages

3.1 Second Reading

The Second Reading of the Bill in the House of Lords took place on 13 October 2021.[49]

Opening the debate, the Minister for Work and Pensions, Baroness Stedman-Scott, reiterated the Government's reasons for introducing the Bill. She noted that ONS figures, published the day before the debate, confirmed that the Average Weekly Earnings index for May to July (used to measure earnings) was 8.3%, which she observed was two percentage points higher than at any time over the last two decades. The Minister argued that it would not be fair to "younger taxpayers" to increase the State Pension and other relevant benefits by such a percentage.[50]

The Labour Member, Baroness Drake, noted that while the 8.3% increase in the earnings index was partly caused by the pandemic's impact on the labour market, this was not the only cause. She expressed two concerns: the first was the "growing assertion" that pensioners had benefited excessively over recent years. The second was that the removal of the earnings link from the triple lock "may be a Trojan horse for removing earnings on a permanent basis".[51]

On her first concern, Baroness Drake noted that pensioner poverty, when measured against disposable income, had risen and that viewed in the long term, successive governments had allowed the value of the basic State Pension to decline relative to earnings between 1979 and 2008.

She argued that while there are was cohort of retired people with access to generous occupational pensions, weakening the State Pension would be regressive in "hurting those pensioners who most depend on it"; and that concerns around intergenerational fairness would be better addressed through the tax system and National Insurance rules for those above the State Pension age and in work.[52]

49 HL Deb 13 October 2021
50 Ibid., cc1846-8
51 Ibid., c1848
52 Ibid., c1850

On her second concern she reported that in a meeting with the Minister, she had been told that restoration of the earnings link would “have to be argued next year”. She therefore asked:

> Can the Minister tell us—for the record and on the record, unequivocally—whether the Government are committed to maintaining the state pension as a firm foundation, holding its value against average earnings over the long term as a minimum upon which future workers, including young workers, can build for their retirement?[53]

Baroness Sherlock, Labour’s Shadow Spokesperson for Work and Pensions, noted that any change in the provision of the State Pension should be viewed in the context of a “growing problem” with pensioner poverty and argued that increasing uptake in Pension Credit “is key”. She also raised the issue of couples where one person is under the State Pension age and one person is over who, would be affected both by the withdrawal of the Universal Credit uplift and by the provisions in the Bill.[54]

For the Liberal Democrats, Baroness Smith of Newnham also questioned the temporary nature of the removal of the earnings link. She also queried whether the spike in earnings was solely caused by the coronavirus pandemic, and asked whether there was a possibility that “some of the rise in earnings is because of Brexit?”. She voiced her support for restoring the Universal Credit uplift and questioned why an impact assessment had not been produced for the Bill. In concluding, she recognised that 8% “might be too much to increase pensions by this year” but argued that a “middle way” could be found.[55]

The Conservative Member and former Pensions Minister, Baroness Altmann, said the Bill was not required to avoid an 8% increase in the State Pension and other benefits. This is because Section 150A of the Social Security Administration Act 1992 requires the Secretary of State to consider “earnings” without defining how this should be measured.[56]

Baroness Altmann noted that the ONS had produced an alternative figure in the range of 3.2 to 4.4% for underlying earnings growth which had been adjusted to account for the exceptional impact of the pandemic.[57] She argued that this figure should be used:

> Using the adjusted earnings figure could avoid this—draconian, in my view—legislation, which tears up years of protection for

53 Ibid., cc1849-1851
54 Ibid., cc1878-82
55 Ibid., cc1552-4
56 Section 150A(8) of the Act states that “the Secretary of State shall estimate the general level of earnings in such manner as [s]he thinks fit”.
57 Ibid., c1857. This was later revised by the ONS to be 3.6% to 5.1%: Average weekly earnings in Great Britain: September 2021, Office for National Statistics, 14 September 2021. See section 4.1 for further details.

> pensioners and breaks a manifesto commitment. I am sure that those of us on these Benches are particularly concerned about that. Using the adjusted earnings figure would still potentially allow significant cost savings of £3 billion or more relative to using the unadjusted earnings figure, which, as I have tried to explain, is not necessary.[58]

Both Lord Freud, the Minister for Welfare Reform when Universal Credit was introduced, and Baroness Stroud, a Special Adviser to the Secretary of State for Work and Pensions at that time, argued that this Bill presented an opportunity to give the House of Commons a chance to vote on whether to restore the £20-a-week Universal Credit uplift.[59]

In closing the debate, Baroness Stedman-Scott noted in response to questions about the temporary nature of the removal of the earnings element for State Pensions uprating, that it would be in place "for 2022-23, and for 2022-23 only":

> After this year, the legislation will revert to the existing requirement to uprate at least by earnings growth, and the Government's triple lock manifesto commitment remains in place—there is no turning back.[60]

In response to requests for an impact assessment, the Minister argued that one would be difficult to conduct accurately given a lack of data. She stated that any impact assessment would therefore rely heavily on projected incomes and projected income thresholds, which she said would be "extremely uncertain". She therefore argued that any analysis of the impact of the Bill on pensioners risked being misleading.[61]

In response to Baroness Altmann's point about the possibility of using a different measure of earnings as part of the triple lock uprating for 2022-23, the Minister said: "there is no robust methodology for establishing such an adjusted index". She noted that the ONS had not published official statistics for an alternative estimate for earnings growth:

> …it [the ONS] has published just a range of estimates of the potential scale of base and compositional effects caused by the Covid-19 pandemic. However, it has concluded that there is no robust method for producing a single figure for a measure of underlying wage growth that accurately takes account of temporary effects due to the pandemic that all experts could reach agreement on. This lack of an agreed robust analytical basis for an alternative

58 HL Deb 13 October 2021., cc1856-9

59 Ibid., cc1861-2 (Lord Freud), and cc1873-6 (Baroness Stroud)

60 Ibid., c1883

61 The Government subsequently published an Impact Analysis for the Bill – see the section below on the Lords Report Stage

> figure means that there is a legal risk in breaking with precedent in the measure of earnings used.[62]

The Minister also insisted that the Bill did not concern benefits linked to inflation, such as Universal Credit, and argued that the £20-a-week uplift had always been intended as a temporary measure during the pandemic.

Finally, she reminded the House that Royal Assent was required by 22 November to allow the Secretary of State to conduct a statutory review in time for the DWP to meet a hard deadline of 26 November for its computer delivery systems. She stated that any delay would result in the review being conducted under existing legislation which would require the Government to uprate State Pensions and other relevant benefits by at least 8.3% which, she reiterated, "would not be fair to the current and future generations of taxpayers".[63]

3.2 Committee Stage

The Lords Committee Stage was on 26 October 2021.[64] No amendments were agreed.

First group of amendments

The first group of amendments considered included three tabled by the Conservative Member, and former Pensions Minister, Baroness Altmann (with the support of other Members). [65] The amendments, respectively, would have:

- retained the earnings element for the 2022/23 State Pensions uprating, but using a figure of 3.8%, which was the mid-point for the initial range of estimates of "underlying" earnings growth set out in an Office for National Statistics (ONS) blog post in July 2021[66];
- increased State Pensions in 2022/23 in line with an adjusted earnings figure; and
- excluded the standard minimum guarantee of Pension Credit from the provisions in the Bill, so that it would increase in line with earnings in 2022/23.

An amendment tabled by Baroness Janke (Liberal Democrat) was also considered with these. This was to base the State Pensions increases in 2022/23 on the Bank of England's forecast for inflation for April 2022.

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[62] Ibid., c1885
[63] Ibid., cc1882-8
[64] HL Deb 26 October 2021 cc725-782
[65] HL Deb 26 October 2021 cc725-742
[66] Far from average: How COVID-19 has impacted the Average Weekly Earnings data, ONS, 15 July 2021

The first amendment (uprating by 3.8%) was withdrawn, and the other amendments were not moved.

Second group of amendments

The second group of amendments considered were:[67]

- an amendment tabled by Labour's Baroness Sherlock (and others) requiring the Government to publish within six months of Royal Assent a review of how the Act had affected pensioner poverty;
- a similar amendment tabled by Baroness Janke (Liberal Democrat);
- an amendment tabled by Baroness Sherlock (and others) requiring a review of the impact of the Act on mixed-age couples (couples where one partner is above, and the other under, State Pension age); and
- an amendment tabled by Baroness Sherlock and Baroness Drake, requiring the Secretary of State to publish an assessment of how the Act affected those receiving State Pensions, particularly their ability to pay energy bills.

The main themes that emerged during discussion of this group of amendments included the lack of an impact assessment for the Bill, trends in pensioner poverty, and the effect of rising prices on pensioners' households.

The first amendment in the group listed above was withdrawn. The other amendments were not moved.

Amendment related to Universal Credit

Towards the end of the Committee Stage, Baroness Stroud (Conservative) moved an amendment (supported by the former Minister for Welfare Reform, Lord Freud, Baroness Boycott, and Baroness Janke), to require a debate and vote to take place in both the Commons and the Lords on the desirability of reinstating the £20 a week uplift to the Universal Credit standard allowance.[68] The uplift was introduced by the Government in April 2020 as a temporary measure in response to the pandemic and was withdrawn at the beginning of October 2021.[69]

Before Baroness Stroud moved her amendment, the Leader of the House, Baroness Evans of Bowes Park, informed the House that the clerks had advised it was inadmissible because its subject matter was out of the scope of the Bill. She noted however that the Companion to the Standing Orders stated

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[67] HL Deb 26 October 2021 cc743-736

[68] HL Deb 26 October 2021 c762

[69] For background see Opposition Day Debate: Universal Credit and Working Tax Credits, Commons Library Debate Pack CDP2021-0136, 15 September 2021

that the admissibility of an amendment can ultimately be decided only by the House of Lords itself.[70]

Baroness Stroud said it was "with a heavy heart" that she had tabled her amendment, and that she did "not take lightly the idea of disagreeing so fervently" with her Government, or of stretching parliamentary convention. However, she said that the removal of the £20 uplift was "a grave misstep and risks undermining the levelling-up agenda, leaving behind society's most vulnerable people and putting at risk the stability of many homes up and down the country as we enter an unpredictable winter."[71]

Following debate on the amendment, Baroness Stroud said that it would cause her "great sadness" to divide the House on the issue of protection for the poorest in society – on which she felt people should be united – and to do so "under such contentious circumstances". She therefore asked to withdraw her amendment.[72]

Budget announcement on Universal Credit

In his Budget the following day, the Chancellor announced a reduction in the Universal Credit (UC) taper rate to 55%, and an increase in the UC work allowances of £500 a year.

Responding to the Budget announcements at Report Stage, Baroness Stroud and Lord Freud said they would not be pursuing their amendment "at this time." Baroness Stroud said however that the level of the UC standard allowance should be kept in focus, noting that UC claimants who cannot work, including those with sicknesses and disabilities, would not benefit from the Budget announcements.[73]

Lord Freud suggested a "three-point plan" for the Chancellor to use a small proportion of the "£25 billion that he is reported to have built into his Budget arithmetic" to alleviate hardship on the poorest by:

- restoring the 9% erosion in the UC standard allowances over the previous decade;
- tying the UC standard allowance to average earnings; and
- "getting rid of the excrescences such as the two-child policy and the benefit cap".[74]

70 HL Deb 26 October 2021 cc760-761
71 HL Deb 26 October 2021 c762
72 HL Deb 26 October 2021 cc781-782
73 HL Deb 26 October 2021 cc781-782
74 HL Deb 2 November 2021 cc1129-1130

3.3 Report Stage

The Lords Report Stage took place on 2 November 2021.[75] An amendment was agreed to retain the earnings element of the triple lock for the April 2022 uprating, using a measure of earnings growth adjusted to take account of the distorting impacts of the pandemic.

The amendment was moved by the Conservative Member and former Pensions Minister, Baroness Altmann, and was supported by Liberal Democrat, Crossbench and Labour members.

No other amendments were agreed at Report Stage.

Baroness Altmann's amendment

Baroness Altmann's amendment would maintain the earnings element for State Pensions uprating in 2022/23. However, it would require the Secretary of State to adjust the earnings measure to correct for distortions that the pandemic caused to the ONS Average Weekly Earnings (AWE) figures.

Baroness Altmann said that it "strains credulity" that with the statistical and actuarial expertise at the Government's disposal, it is not possible to produce a reliable figure for underlying earnings growth that accounts for the pandemic. She pointed towards Office for Budget Responsibility (OBR) and ONS statistics that might be used as the basis for re-estimating earnings growth.[76]

Baroness Altmann said that when the Commons had voted to suspend the earnings element of the triple lock, it had done so on three bases which she believed were flawed.[77] The first was that they had been led to believe that there was no alternative to using the 8.3% earnings growth figure.

The second basis was that uprating State Pensions in line with prices (3.1%) would protect against rises in the cost of living. The outlook for inflation had however significantly deteriorated since then, with the OBR expecting CPI inflation to reach 4.4% in 2022, and possibly peaking at close to 5%.[78]

The third basis was that not suspending the earnings element of the triple lock would cost £5 billion a year. Baroness Altmann said that using an adjusted earnings figure would still save several billion pounds relative to that figure. She also questioned the Government's priorities for public spending, given the cuts to alcohol and fuel duty and increase to the bank surcharge allowance, announced in the October Budget.

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[75] HL Deb 2 November 2021 cc1121-1165
[76] HL Deb 2 November 2021 c1123
[77] HL Deb 2 November 2021 cc1140-1141
[78] See Economic and fiscal outlook – October 2021, OBR

Government response

For the Government, Baroness Stedman-Scott said that the Government's reasons for not adopting an adjusted measure of earnings had not changed. These included the "unacceptable level of risk that would be attached to changing the definition of earnings using the current legislation."[79] The Minister reminded the House that the cost of failing to secure Royal Assent for the Bill by mid-November would be in the range of £4-5 billion.

The Minister said that the ONS figures quoted had no official status but originated from an ONS blog post first published in July 2021. She said the blog itself highlighted that there was no single method everyone could agree on, that there remained a lot of uncertainty about how to control for the distortionary effects of the pandemic, and that estimates of underlying earnings growth should therefore be treated with caution. The Minister said:

> Using a range of possible estimates based on a method that cannot be agreed on does not provide a sufficiently robust basis for making critical decisions about billions of pounds-worth of expenditure.[80]

The Minister said that there was a further problem since the ONS estimates for underlying earnings growth were based on regular pay (excluding bonuses), rather than total pay – the measure is used for uprating purposes.

Baroness Altmann's amendment was agreed by 220 votes to 178. A further amendment consequential to the amendment was also agreed, without a vote.

Further information on measures of underlying earnings growth, stripping out the distortionary effects of the pandemic, is given in section 4.1 below.

Other amendments discussed

Other amendment debated at the Lords Report Stage but either withdrawn, or not agreed, included:

- Amendment 5 tabled by Labour's Baroness Sherlock, requiring the Secretary of State to publish a review of the impact of the Act on pensioner poverty. The amendment was not moved following an undertaking by Baroness Stedman-Scott to publish an impact assessment for the Bill.[81]
- Amendment 2 moved by Labour's Lord Davies of Brixton , to increase State Pensions and the related benefits by 8.1% in 2022/23, in order to boost the value of State Pensions in relation to earnings. The amendment was withdrawn.

79 HL Deb 2 November 2021 c1147

80 HL Deb 2 November 2021 c1147

81 See Social Security (Uprating of Benefits) Bill – Impact Analysis, DWP, DEP2021-0855, 5 November 2021

- Amendment 6 moved by Labour's Lord Sikka , to leave out clause 1 of the Bill – so that State Pensions and the related benefits would increase in line with earnings in 2022/23.
- Amendment 8, also moved by Lord Sikka, to require the Government to present a report to Parliament showing how the suspension of the triple lock would effect on the National Insurance Fund account, before it suspends it. After Baroness Stedman-Scott undertook to write to Members responding to various points raised in debates regarding the operation of the National Insurance Fund, this amendment was withdrawn.

3.4 Third Reading

At the Lords Third Reading on 8 November, Baroness Sherlock said the Bill had now been amended to require the Government to find a way to adjust pension uprating and to maintain the earnings element, while making allowance for the pandemic. Lady Sherlock added: "I urge the Government to take that seriously and to use the time they now have to find a better solution than that offered by the Bill."[82]

On behalf of the Liberal Democrats, Lord Stoneham of Droxford said he hoped Baroness Altmann's amendment would enable MPs to think again about the need to protect pensioners from worsening economic circumstances. He said that since the Bill's passage through the Commons, significant changes had taken place, with economic indicators "leaving little doubt that pressures will grow in the months ahead."[83]

Baroness Altmann said she hoped the Government would find a way to retain the amendments to the Bill "…and uprate state pensions by more than the 3.1%, which is clearly inadequate to protect against cost of living increases."[84]

Lord Sikka said that while he was grateful to the Minister for the Impact Analysis for the Bill, he hoped the quality of data would be better in future. He said:

> For example, it refers to weekly mean benefits, which do not tell us much about the societal impact or distribution. It would be very helpful, for example, to know the median figure and to have some further analysis in the appropriate financial brackets. Table 4 refers to the number of people eligible, pre-2016, for the new state pension but does not tell us how many actually receive the full amount. Once again, could I please request a fuller analysis, which would not only

82 HL Deb 8 November 2021 c1446
83 HL Deb 8 November 2021 cc1446-1447
84 HL Deb 8 November 2021 c1447

> provide greater transparency but enable us to call the Government to account? It could be in the form of a statement of the number of individuals receiving, for example, a pension of less than £100 per week, those receiving between £100 and £120, and so on in other brackets. A better quality of analysis would enrich the debate.[85]

Replying for the Government, Baroness Stedman-Scott said she would take Lord Sikka's observations on the impact assessment back to the Department for Work and Pensions.

85 HL Deb 8 November 2021 c1447

4 Issues arising from Lords amendments

4.1 Underlying earnings growth

Earnings and the pandemic

The earnings benchmark for the triple lock is the year-on-year change in the Average Weekly Earnings index for total pay (regular pay and bonuses) for May to July – this was 8.3% in 2021.[86]

This latest statistic is a less reliable than usual guide to underlying changes in earnings experienced by workers, for two main reasons:

- **Base effect**: wages in mid-2020 were depressed by furlough and reduced hours. Fewer jobs were affected by this in mid-2021, meaning weekly wages were higher.
- **Compositional effect:** job losses during the pandemic affected lower paid roles the most, artificially pushing up average wages among those jobs that remained.

The previous Library briefing on the Bill: Social Security (Uprating of Benefits) Bill 2021-22, has background on earnings data in section 5.2.

The Altmann amendment

Baroness Altmann's amendment would keep the earnings element of the triple lock but require the Secretary of State for Work and Pensions to make adjustments that are considered appropriate for distortions in the traditional ONS Average Weekly Earnings figures, caused by the pandemic and Government measures on the labour market.

The Government has however argued that this cannot be done reliably. Baroness Stedman-Scott told the Lords:

> … there is no alternative earnings measure upon which uprating can be based that is sufficiently robust. If there were, there would be no reason not to apply it to all the earnings-linked pensions and benefits. There is no adjusted measure of earnings growth that has

[86] Source: Office for National Statistics series KAC3, average weekly earnings (AWE) whole economy year-on-year three-month.
As explained in the previous Library briefing on the Bill, the Secretary of State has discretion as to the measures of earnings to use. Different measures have been used over time, but since 2011 the uprating process has used the May-July Average Weekly Earnings (AWE) figure.

> the status of an official statistic. Instead, the ONS has published a range of possible estimates, which it advises should be treated with caution.[87]

Baroness Stedman-Scott also noted that ONS estimates focus on regular, rather than total pay. Total pay is the measure usually used for uprating since it includes bonuses and "gives a more complete picture of earnings". [88]

ONS estimates

The Office for National Statistics produced estimates of underlying pay growth for regular pay for May to July 2021, after the base effect and compositional effect have been accounted for (with our bold):

> Latest figures show that for May to July 2021, the regular earnings growth rate is 6.8%. [...], we estimate that the base effect will reduce the regular earnings growth rate by between 1.9 and 3.4 percentage points. In addition, the compositional effect we estimate at 0.2 percentage points below pre-pandemic levels. **This would give an underlying regular earnings growth rate of between 3.6% and 5.1%. Given the uncertainty around this range, interpretation should be treated with caution.**[89]

The ONS has not produced similar estimates of growth in total pay, including bonuses.[90]

The DWP estimates that uprating State Pensions and the related benefits by the mid-point of the ONS blog's indicative range for underlying earnings growth (4.4%) would cost an additional £1.3 billion in 2022/23, compared with uprating in line with prices. This additional expenditure would continue and increase in later years, costing an additional £1.7 billion per annum in 2026/27, according to the DWP.[91]

Bank of England estimates

The Bank of England has produced estimates of underlying growth in private sector regular pay, stripping out the effects of furlough and compositional effects. For May to July 2021, its estimate was around a **4% underlying increase in earnings**.

This figure is just for the private sector, rather than the whole economy, and is for regular pay, rather than total pay including bonuses.

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87 HL Deb 2 November 2012 cc1131-1132

88 HL Deb 2 November 2012 cc1147-1148

89 Average weekly earnings in Great Britain: September 2021, Office for National Statistics, 14 September 2021 – Section 3 has further explanation

90 ONS, via correspondence with the Commons Library

91 Social Security (Up-rating of Benefits) Bill: Explanatory Notes on Lords amendments, Bill 188 2021-22-EN, para 9

The Bank of England also warns of **uncertainty** around its estimate, given the difficulties in precisely measuring furlough and compositional effects.[92]

How comparable are estimates for growth in regular pay with growth in total pay?

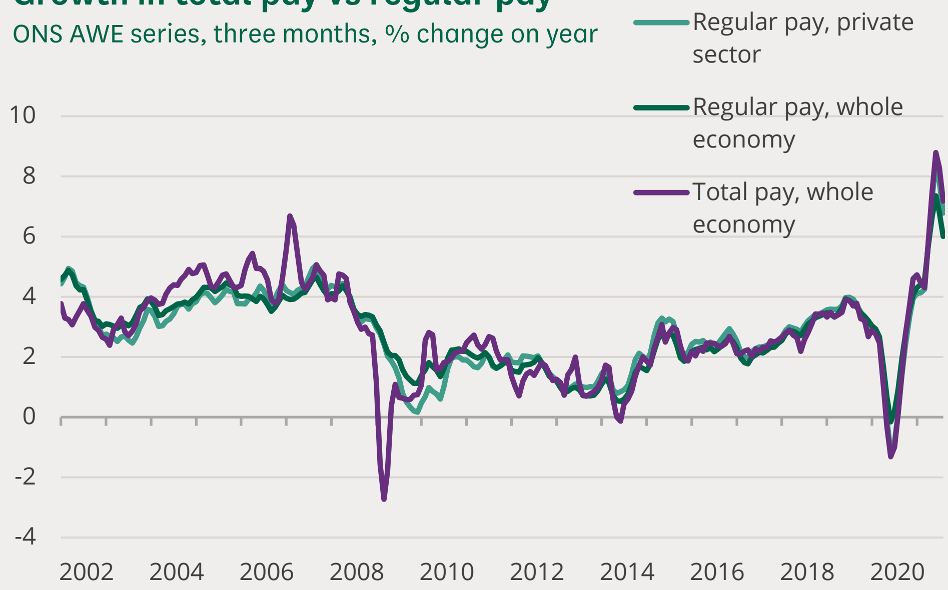
The ONS has estimated growth in regular pay, but the traditional measure used in the triple lock is total pay, including bonuses.

Regular pay does make up most pay, but the amount and pattern of bonuses can mean that growth in total pay differs from growth in regular pay.

As the chart below shows, the (unadjusted) ONS series for regular and total pay have however followed each other reasonably closely over the past few years.

Growth in total pay vs regular pay

ONS AWE series, three months, % change on year



Source: Annual Weekly Earnings, ONS, series KAC3, KAI9, KAJ4

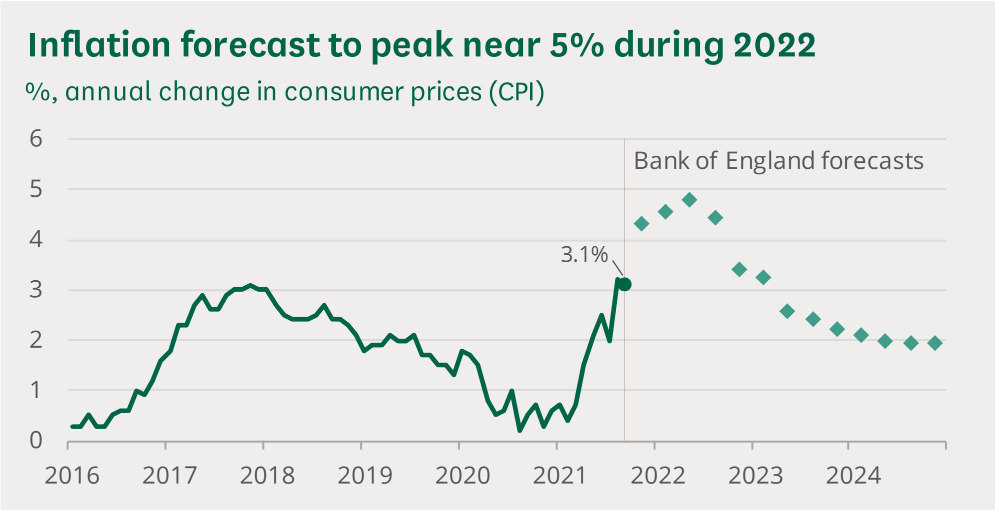
[92] Monetary Policy Report - November 2021, Bank of England, 4 November 2021 – Section 2.3 and data underlying Chart 2.22 from the associated chart slides and data file.

4.2 Inflation and the cost of living for pensioners

Inflation

Inflation has risen over 2021 and is expected to continue to do so heading into 2022. Consumer prices, as measured by the Consumer Prices Index (CPI), were 3.1% higher in September 2021 than a year before (this is the most recent available data).[93] State Pensions will therefore increase by at least 3.1% from April 2022, if the triple-lock is suspended in 2022/23.

In early November, the Bank of England forecast inflation to rise above 4% in the coming months before peaking "at around 5%" in April 2022.[94] On average in the 2022/23 fiscal year, the Bank forecasts the annual inflation rate to be 4.0%.[95]



Note: Bank of England quarterly forecasts are based on market expectations of interest rates (expected to rise from 0.1% now to 1% by the end of 2022); ONS outturn data up to Sept 2021 is monthly
Source: CPI, ONS, September 2021 data, series D7G7 and Monetary Policy Report, BoE, Nov 2021

One of the main sources of inflationary pressure is energy prices, with household energy tariffs increasing and petrol costs going up. Many global commodity prices have also risen. The ongoing supply shortages may also increase consumer prices.[96]

93 Consumer price inflation, UK: September 2021, ONS, 20 October 2021
94 Monetary Policy Summary and Monetary Policy Report, Bank of England, 4 November 2021
95 All BoE forecasts used here are based on market expectations of interest rates (expected to rise from 0.1% now to 1% by the end of 2022)
96 See UK economic outlook, National Institute of Economic and Social Research, Nov 2021, pp25-28

In its most recent set of forecasts published alongside the Autumn Budget and Spending Review, the Office for Budget Responsibility (OBR) said that based on recent developments, inflation would peak at close to 5% in 2022.[97]

No specific inflation measure for pensioners is regularly published. The Office for National Statistics (ONS) has provided some experimental figures in the past.[98] This showed that over the period 2006-2019, the average annual inflation rate for retired and non-retired households were the same at 2.2% per year.[99]

While not always moving in lockstep, the inflation rates for retired and non-retired people moved in the same direction. This suggests that the main issue in the coming year or so is the overall upward trend in inflation. Pensioners may though be more exposed to rising energy bills given that they on average spend a higher share of their income on this (see below).

Pensioners will feel the effects of high inflation if their private pension income is not adjusted for inflation – for example, because they are receiving a level annuity.[100]

Rising energy bills

A higher proportion of pensioners' spending goes on electricity, gas and other domestic fuel compared to other age groups. The table shows that from April 2019 to March 2020, the proportion of total spending going to fuel increased with the age of the 'household reference person'.[101]

However, age is not the only factor at play when it comes to household spending on fuel, and there is likely to be large variation among pensioners, especially based on household income. Households with the lowest incomes (the bottom tenth) spent 7.7% of their total spending on fuel in 2019/20, compared to 2.7% for households in the highest tenth.[102]

Percentage of total spending on fuel

By age of household reference person, 2019/20

Age	%
Less than 30	3.0%
30-49	3.6%
50-64	4.1%
66-74	5.1%
75+	6.6%
All households	4.2%

Source: Family spending in the UK: April 2019 to March 2020, ONS, Table A11

[97] The OBR's official forecasts had inflation peaking at 4.4%. However, the OBR noted that news since it closed its forecasts (on 24 Sept.) would be in line with a peak of close to 5% (EFO, Nov'21, para 1.2)

[98] CPIH-consistent inflation rate estimates for UK household groups: October to December 2019, ONS, 19 February 2020; CPIH is CPI with an additional element of owner-occupied housing costs included

[99] Library calculation based on table 15 of accompanying ONS dataset (plutocrat weighting)

[100] An annuity is a product sold by an insurance company that provides a guaranteed income in retirement. There are different types of annuity, some are level (or fixed), others increase each year. For more detail, see Money Helper Service - Annuity options and shopping around

[101] Family spending in the UK: April 2019 to March 2020, ONS, Table A11

[102] Family spending in the UK: April 2019 to March 2020, ONS, Table A6

Incomes

Working-age people and children are more likely than pensioners to be negatively affected by recent changes to taxes and benefits. This includes the end of coronavirus support, personal tax rises, and the withdrawal of the £20 a week Universal Credit uplift.

Those over State Pension age do not pay National Insurance, so won't be affected by the temporary increase in April 2022.[103] Pensioners are less likely to be working than working-age people, with an employment rate of 10.8% in June to August 2021, compared to a rate of 75.3% for those aged 16-64.[104] This means the end of coronavirus support in September 2021 and the new Health and Social Care levy from April 2023 are unlikely to have a large impact on the income of pensioners.

Similarly, the withdrawal of the £20 Universal Credit uplift affects working-age adults and children more than those of pension age: 0.2% of people aged over 65 are on Universal Credit, compared to 14.2% of 16-64 year olds.[105]

Pensioners are less likely to be in poverty than other age groups. 18% of pensioners (2.1 million) were in relative poverty after housing costs in 2019/20, compared to 20% of working-age adults (8.1 million) and 31% of children (4.3 million).[106]

Section 5 of Library briefing Background to the Autumn Budget and Spending Review 2021 provides further information on current and upcoming cost of living pressures.

[103] National Insurance and tax after State Pension age, Gov.uk

[104] Employment, unemployment and economic inactivity by age group, ONS, Table A05 SA, (seasonally adjusted)

[105] People on Universal Credit, DWP, via StatXplore

[106] Households Below Average Income, DWP, 2019/20