Social Security (Up-rating of Benefits) Bill

HL Bill 54 of 2021–22

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Date published: 6 October 2021

On 13 October 2021, the second reading of the Social Security (Up-rating of Benefits) Bill is scheduled to take place in the House of Lords.

The bill would allow the Government to set aside the earnings requirement of the triple lock for assessing state pension increases for the 2022/23 financial year. Instead, state pensions would be increased by 2.5% or the rate of inflation, whichever is higher. This would also apply to certain related benefits, including the standard minimum guarantee in pension credit and the survivors' benefits in industrial death benefit.

The triple lock is a Conservative Party manifesto commitment. It guarantees that state pensions increase each year by whichever is the highest of inflation, wage growth or 2.5%.

The Government has explained that the decision to set aside the earnings measure is a temporary one. The decision is a reaction to a "statistical anomaly" whereby earnings have increased by over 8% in recent months as the economy recovers from the coronavirus pandemic. The Government has said that increasing state pensions in line with earnings this year could lead to tough public spending decisions elsewhere. However, the Government has emphasised its commitment to the triple lock policy and stressed that the earnings measure is only being set aside for this year's review. It has been estimated that increasing state pensions by 2.5%, rather than around 8%, could save the Government approximately £5 billion. The latest consumer price index figures, usually used to measure inflation, showed a 3.2% increase for the 12-month period up to August 2021.

All stages of the bill were taken in the House of Commons on 20 September 2021. Opposition parties criticised the bill, highlighting that the policy represented a broken manifesto commitment. Labour and the Scottish National Party both tabled amendments calling on the Government to publish a review of the impact of the policy, particularly in relation to pensioner poverty rates. However, these amendments were unsuccessful, and the bill passed its Commons stages without amendment.

Age UK has also called on the Government to review the policy, stating that pensioners would be worried about the future of the triple lock and that more measures were needed to ensure pensioners could live comfortably in retirement. The Pensions Policy Institute accepted that the 8% earnings increase put the Government in a "tricky position", but suggested it consider earnings over the last two years instead. The Institute for Government backed the temporary measure, believing it offers a "reasonable outcome" in light of public finances.

The Government also implemented temporary changes to the state pensions uprating review in 2020. On that occasion, the legislation ensured that state pensions could be increased for the 2021/22 financial year, despite negative wage growth. As a result, state pensions were increased by 2.5% for the 2021/22 financial year.

1. Background to the bill

The Social Security (Up-rating of Benefits) Bill would make changes to the system for reviewing state pensions and related benefits for the 2022/23 financial year. It would allow the Government to set aside increases in earnings and instead increase the state pension in line with inflation or by 2.5%, whichever is higher.

This relates to the pensions 'triple lock', a policy the Coalition Government introduced at the beginning of the 2011/12 financial year. It guarantees state pensions increase each year by whichever is the highest of:

- inflation (using consumer prices index (CPI) measures);
- earnings growth; or
- 2.5%.

The current Government affirmed its commitment to the triple lock in its 2019 general election manifesto.[1]

However, on 7 September 2021, Secretary of State for Work and Pensions Dr Thérèse Coffey announced that the Government would set aside the commitment to consider earnings when reviewing state pension increases for the upcoming financial year.[2] She explained that earnings had recently grown at an "unprecedented rate" because of the reopening of businesses and the closure of furlough schemes as restrictions were eased during the coronavirus pandemic. She described this as a "distorted" reflection of earnings growth, noting that the rate of increase was projected to be over 8%.[3]

Instead, Dr Coffey announced that for the 2022/23 financial year state pensions would be increased by 2.5% or in line with the rate of inflation. This, she explained, would give pensioners security but would prevent them benefitting from a "statistical anomaly". It would also prevent the Government having to make even tougher public spending decisions elsewhere because of the cost of applying an 8% increase. She noted support for the move from bodies such as the Institute for Government.[4]

Dr Coffey said the adjustment would apply to those receiving basic and new state pensions, standard minimum guarantee in pension credit, and widows' and widowers' benefits in industrial death benefit. However, she said the bill would "not extend to other benefits that are linked to prices, which I will review under the existing legislation, as I did last year".[5]

She stressed that setting aside the earnings component was temporary and should only be necessary for one year. She also highlighted that the Government had introduced similar legislation last year.[6]

[1] Conservative Party, *General Election Manifesto 2019*, November 2019, p 18.

[2] HC *Hansard*, 7 September 2021, cols 185–93.

[3] ibid, col 185.

[4] ibid, col 186.

[5] ibid.

[6] For more details, see: House of Lords Library, 'Social Security (Up-rating of Benefits) Bill: Briefing for Lords stages', 7 October 2020.

This had allowed an increase in state pensions and related benefits in the 2021/22 financial year, despite a decrease in earnings in the preceding period (because of the impact of the coronavirus pandemic). This legislation had been necessary because of the way the act underpinning the system (the Social Security Administration Act 1992) was drafted.

The House of Commons Library estimated that increasing state pension rates by 2.5% rather than 8% could save the Government around £5 billion.[7]

2. Bill provisions

The bill has one substantive clause, clause 1, which would allow this year's uprating review of certain pension benefits to be made by reference to prices instead of earnings. This would apply to the:

- basic state pension;
- full rate of the new state pension;
- standard minimum guarantee in pension credit; and
- survivors' benefits in industrial death benefit.

The bill would require the secretary of state to bring forward an uprating order to increase these benefits by 2.5% or by the increase in the general level of prices for the 2022/23 financial year, whichever is higher. This order would be subject to the affirmative resolution process and would be laid before both Houses of Parliament.

The need to regularly review certain benefits and, if necessary, lay an uprating order is set out in the Social Security Administration Act 1992 ("the 1992 act"). It is section 150A of this act that ordinarily requires earnings to be considered when reviewing the need to increase these pension benefits.

As set out in the bill's explanatory notes, the 1992 act also requires certain other benefits to be regularly reviewed with reference to the general level of prices:

> Section 150(1) of the 1992 act requires the secretary of state to review social security benefits, to determine whether they have retained their value in relation to the general level of prices. If the benefits have not retained their value, subsection (2)(a) requires the secretary of state to bring forward a draft up-rating order to up-rate some of them by at least as much as the increase in the general level of prices. The main benefits affected are attendance allowance, carer's allowance, disability living allowance, personal independence payment and the additional state pension. The secretary of state has a discretion under subsection (2)(b) as to whether or not to increase other benefits in the draft up-rating order. The main benefits affected are the working age benefits.[8]

[7] House of Commons Library, 'Social Security (Uprating Of Benefits) Bill 2021–22', 15 September 2021. See also: Philip Inman, 'Pressure increases on Rishi Sunak to suspend triple lock on pensions', *Guardian*, 17 August 2021.

[8] Explanatory Notes, p 3.

Universal credit is one of the benefits that the secretary of state has discretion to increase. The bill would not make changes to the way these benefits are reviewed.[9]

Clause 2 states that the bill would come into force on the day it is passed and would apply to England and Wales and to Scotland.

3. House of Commons stages

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

The bill is being fast-tracked through Parliament. The explanatory notes state this is because the secretary of state will need to have completed her review of earnings, and made a statement to Parliament, by 26 November 2021, to meet departmental deadlines to implement any increase.[10]

3.1 Second reading

Discussion of the bill at second reading also included consideration of the following amendment, tabled by Ed Davey (Leader of the Liberal Democrats), calling on the House of Commons to vote against the bill:

> This House, while recognising the extraordinary circumstances of the Covid-19 pandemic, declines to give a second reading to the Social Security (Up-rating of Benefits) Bill because 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.[11]

Opening the debate, Dr Coffey outlined the Government's commitment to the triple lock policy and reiterated that the decision to set aside earnings in this year's uprating review was temporary. She said that the Government was proud of its commitment to state pension increases and again described the bill as addressing a current "statistical anomaly":

> This Government are committed to ensuring that older people can enjoy their retirement with security, dignity and respect, and since 2010 the full yearly basic state pension has increased by more than £2,050 in cash terms. There are now 200,000 fewer pensioners in absolute poverty, both before and after housing costs, than in 2009/10. I am proud of our record on support for pensioners and of the action we took last year to ensure that pensioners' incomes continue to increase. This bill will ensure that a temporary statistical anomaly in wages does not unfairly track across into pensions, while also preserving the spending power of pensioners and protecting them from increases in the cost of living.[12]

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[9] For further information on recent debate about the universal credit rate, see: House of Lords Library, 'Universal credit: an end to the uplift', 3 September 2021.

[10] Explanatory Notes, p 4.

[11] House of Commons, 'Order Paper for Monday 20 September 2021', accessed 21 September 2021.

[12] HC *Hansard*, 20 September 2021, col 62.

She said she was disappointed with Mr Davey's amendment arguing that the approach the Government was taking had been "strongly recommended" by pensions experts, including the former Liberal Democrats pensions minister, Sir Steve Webb.

Responding for Labour, the Shadow Minister for Pensions, Matt Rodda, argued that the Government had broken its promise to pensioners and was using the coronavirus crisis as an excuse to scrap the pensions triple lock. Although he emphasised Labour did not believe pensions should be increased by 8%, he queried whether other methods could have been used to calculate earnings to avoid the "anomaly". He spoke of the financial hardships being faced by sections of society and called for the Government to put forward evidence to back up its approach:

> At the very least, ministers should maintain an earnings link, explain their decisions, offer binding commitments to protect the triple lock and protect the incomes of less well-off pensioners. There is nothing in the bill that seeks to increase the uptake of tax credits or, indeed, to set out other steps the Government will take to protect low-income pensioners […] Governments should explain the evidence used to make key policy decisions, as evidence-based policy making has been a central plank of good governance for a very long time.[13]

Mr Rodda also highlighted Labour's concerns about the potential impact of the upcoming reduction in universal credit, which was temporarily increased because of the coronavirus pandemic.[14] He noted that this was the subject of an additional amendment (which was not chosen for debate) Conservative MPs Damian Green and Sir Ian Duncan Smith had tabled. Speaking about Labour's concerns, Mr Rodda stated:

> Opposition members are deeply concerned about the cut to universal credit and the devastating impact it could have. It will hit thousands of families and many people in work, including nurses, teaching assistants and supermarket workers. I know from experience that 9,000 people in my constituency will be affected. Like colleagues on both sides of the House, I have spoken to residents who are desperate and who do not know how they will cope.[15]

Speaking next, Sir Ian Duncan Smith (a former Secretary of State for Work and Pensions) emphasised that he supported the Government's decision to temporarily set aside the earnings component of the triple lock but wanted the Government to urgently review the universal credit rate. Noting the money that would be saved because of the bill, he explained:

> The point of the amendment I tabled but which was not selected and the purpose of today's debate is to ensure that those of working age who are receiving security, support and benefit from this Government get the right level of support. We know that the changes made to the triple lock will ensure that a saving is made to the Exchequer against what was unpredictable at the time and resulting from the increase in pay that will happen as a result of the easing of the Covid restrictions and the bounce back that is taking place. I also recognise that one problem we have as a result is that those of working age are going to have to pick up a bigger burden, which is why the universal credit uplift should be reviewed and reviewed very quickly.

[13] HC *Hansard*, 20 September 2021, cols 63–4.

[14] House of Lords Library, 'Universal credit: an end to the uplift', 3 September 2021.

[15] HC *Hansard*, 20 September 2021, col 64.

> The point I simply make, in line with the idea that the pensioners are taking some of this burden, is about universal credit itself: if that money, or some of it, is moved towards the tapers, we will have a reality where more people move into work.[16]

Wendy Chamberlain, the Liberal Democrat Spokesperson for Work and Pensions, spoke to Ed Davey's amendment. She accepted that there had been an "anomaly" in relation to the earnings figures but said that the bill represented another broken manifesto commitment (referring to the recently announced national insurance increase) and that it also failed to help those experiencing financial hardship. She stated:

> I agree that we have seen extraordinary circumstances over the past twelve months, including significant increases in wages, causing this anomaly, but what this bill fails to do—I will have this conversation with my friend, Steve Webb—is help those of working age in poverty through maintaining universal credit, or pensioners themselves.
>
> The bill has only two clauses and five subsections. It fails to address any of the problems with the state pension, or to assess the impact of suspending the triple lock. There are already two million pensioners living in poverty, the majority of whom are women and/or from Black and Asian communities. This bill ignores them and the disproportionate impact that suspending the triple lock will have on people already struggling. The promises made by a party in their manifesto matter. It is the essence of the mandate that they claim.[17]

She also asked why there was no impact assessment published alongside the bill looking at these issues.[18]

The Scottish National Party (SNP) spokesperson, David Linden, stated that his party backed the Liberal Democrats' amendment and would support it in a division. He also said the bill represented a broken manifesto commitment and that it would negatively impact pensioners, particularly those living in poverty.[19]

Responding to these points on behalf of the Government, Guy Opperman, the Parliamentary Under Secretary of State for Pensions and Financial Inclusion, defended the Government's pensions record. He insisted that pensioner poverty rates were decreasing.[20] He concluded:

> We are proud of the fact 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%. We will be raising the state pension by prices or 2.5% when this bill passes, and pensioners will be protected on an ongoing basis, so I commend the bill to the House.[21]

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[16] HC *Hansard*, 20 September 2021, cols 65–66.

[17] ibid, col 71.

[18] ibid.

[19] ibid, col 66.

[20] ibid, col 86.

[21] ibid, col 87.

The Liberal Democrat amendment was moved to a division and defeated by 303 votes to 59. The House of Commons then voted to give the bill its second reading, 300 votes to 55.

3.2 Committee stage and report stage

Two proposed new clauses were tabled for debate at committee stage, one by Labour and one by the SNP. However, the House did not agree to either of the amendments.[22]

Both of these new clauses called for the Government to publish, and lay before Parliament, a review of the legislation within six months of the bill passing. Labour's new clause 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 division. 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 amendment was defeated on division by 304 votes to 58.

Speaking about these new clauses for Labour, Matt Rodda described them as "sensible amendments" to track the impact of the legislation:

> These are sensible amendments which recognise the risks in the approach being taken by the Government. They offer a way of providing important information to ministers and they could indeed alert them to potential problems with the Government's approach. The new clauses also offer important safeguards for pensioners, and I hope the Government will consider them thoroughly.[23]

David Linden made similar points. He said both clauses were intended to monitor pensioner poverty, and that the SNP's clause would "merely require ministers to be transparent and lay before Parliament an impact assessment of poverty".[24]

The Government rejected the new clauses. Guy Opperman 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".[25]

Following the conclusion of the committee stage, the report stage was then agreed without debate or division.

3.3 Third reading

Opening third reading, Labour's Matt Rodda again referred to the bill as a broken manifesto commitment and urged the Government to consider the "series of sensible, helpful points made from across the House".[26] He said that these could make a "substantial difference" to the bill. He then

[22] HC *Hansard*, 20 September 2021, cols 94–106.

[23] ibid, cols 95–6.

[24] ibid, cols 97–8.

[25] ibid, col 98.

[26] ibid, col 102.

listed the following measures to improve the bill:

> First, we have asked them to be honest about the data showing a temporary increase in earnings. Secondly, we have asked them to find a way to address it while maintaining the earnings link. We have suggested using an average rise in earnings over a longer period of time. Thirdly, if the Government are to address the anomaly, will they report back on the impact on pensioners' incomes and take a real interest in the difficulties faced by millions of pensioners on low incomes?[27]

Speaking for the SNP, David Linden expressed disappointment that the Government rejected its amendment at committee stage. He described the legislation as representing a broken promise on the pensions triple lock.[28]

Concluding for the Government, Guy Opperman again emphasised that the legislation was a temporary measure and reiterated the Government's commitment to pensioners and the triple lock:

> I also want to make it very clear that this is a one-year bill, by reason of the pandemic, and that the triple lock will resume after the bill's duration. We increased the state pension by 2.5% last year and we will increase it by 2.5% on prices this year. We spend £129 billion on pensioners—that is £105 billion on the state pension and £24 billion on the top-up benefits—and this Government will continue to support pensioners now and on an ongoing basis.[29]

Third reading was agreed by 303 votes to 52.

4. Commentary

Writing ahead of the official announcement of the bill, charity for older people Age UK said that it understood the argument to suspend the earnings measure of the triple lock for the upcoming review.[30] However, it said it would still cause concerns among pensioners about the future of the policy:

> We understand why this has prompted policymakers to look at the formula being used this year especially in the context of the public finances having been impacted by Covid-19. However, it's asking a lot for older people to believe that any scaling back of the triple lock would only be temporary, rather than permanent. This is especially true when we know that some of the prominent voices arguing for a suspension of the triple lock in response to the pandemic, are the same people who have called for its abolition in the past. Moreover, the fact this Government declined to step in and save the free TV licence for over-75s (another manifesto commitment), hardly helps to build trust.[31]

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[27] HC *Hansard*, 20 September 2021, col 102.

[28] ibid, cols 102–3.

[29] ibid, col 103.

[30] Age UK, 'The state pension triple lock', 31 August 2021.

[31] ibid.

It also commented on pensioner poverty rates, stating:

> Since it was first used as the uprating mechanism in 2012, the triple lock has increased the value of the pension. However, although the state pension is the most important element of retirement income for most pensioners the average payment in Great Britain is still less than £9,000 a year—a pretty basic amount—and some receive much less. As a consequence, more than 2 million pensioners live in poverty. Nearly a quarter (23%) rely on means-tested benefits to top up their income and many others are entitled to, but not receiving, benefits that are due to them. For example, nearly a million pensioners who should be getting pension credit are missing out.[32]

On this basis, Age UK stressed that it remained a firm supporter of adhering to the triple lock. It called on the Government, when considering the uprating policy, to "remember how far we still have to go before every older person receives enough through their state pension to live decently in retirement".[33]

The TUC General Secretary, Frances O'Grady, said the move would hinder progress in the fight against pensioner poverty.[34] She stated it set a "dangerous precedent", and could therefore impact current and future generations:

> The UK has one of the least generous state pensions in the developed world. The triple lock was introduced to close this gap and lift pensioners out of poverty. Suspending it will only halt our progress.
>
> This is a dangerous precedent. If the Government is allowed to pick and choose when to apply the triple lock, the result will be lower state pensions for future generations and more pensioners experiencing hardship. This decision will hit old and young alike. A race to the bottom on pensions helps no one.[35]

Similarly, Daniela Silcock, Head of Policy Research at the Pensions Policy Institute, also believed that breaking the commitment could damage public trust in the Government.[36] However, she recognised that the 8% rise in earnings over the last year had put the Government in a "tricky position". She therefore recommended that the earnings figures be taken from across the last two years instead. She said this would "give a more realistic estimation of real wage increases without the artificial impact of the pandemic impact in the year-on-year earnings statistics".

In contrast, the Institute for Government backed the idea of suspending the earnings measurement and increasing state pensions in line with prices:

> Departing from the perverse triple-lock outcome would, technically, constitute a manifesto breach. However, choosing to do so and instead increasing pensions in line with 'underlying' pay

[32] Age UK, 'The state pension triple lock', 31 August 2021.
[33] ibid.
[34] TUC, 'Suspending triple lock will hurt old and young alike', 7 September 2021.
[35] ibid.
[36] Pensions Policy Institute, 'Press release', 8 September 2021.

> increases would maintain the spirit of the commitment, give a more reasonable outcome and save the Treasury £4bn a year.[37]

Speaking on the Week in Westminster programme, Baroness Stroud (Conservative) said that she intended to table an amendment to the bill to allow MPs to vote on plans to end the £20 universal credit weekly top-up.[38] She believed the increase should be made permanent and described it as a "tragedy" that MPs had not had a "meaningful vote" on the matter.

5. Further reading

Statistics and background on the triple lock policy can be found in the House of Commons Library note, *Social Security (Uprating Of Benefits) Bill 2021–22*, 15 September 2021. This includes information on:

- how state pensions have increased, with reference to the policy, over the last ten years;
- state pensions expenditure; and
- measures assessing pensioner poverty.

The latest consumer price index figures had inflation at 3.2% for the twelve-month period leading up to August 2021.[39]

Other sources covering the matter include:

- Age UK, 'State pension', accessed 24 September 2021

- Office for National Statistics, 'Inflation and price indices', accessed 24 September 2021

- Jessica Beard, '"Don't rob us of our pensions": retirees demand a voice in triple lock debate', *Telegraph* (£), 25 August 2021

- Russell Lynch, 'Spending billions more on state pension is "completely absurd", warns IFS chief', *Telegraph* (£), 19 July 2021

- Craig Berry, 'Suspending the pensions triple lock is bad news for young people', *Guardian*, 7 September 2021

[37] Institute for Government, *Tax and Spending: Questions Facing the Government in Autumn 2021*, p 12.
[38] BBC News, 'Universal credit: Tory peer wants to force Commons vote on cut', 26 September 2021.
[39] Office for National Statistics, *Consumer price inflation, UK: August 2021*, 15 September 2021.

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