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Age-Related Payments Bill

Bill 92 of 2003-04

This Bill, introduced on 22 April 2004, provides for payments of £100 to be made to households in which there is a pensioner who is aged 70 or over in the week of 20-26 September 2004. The payments are designed to help with council tax bills and were announced by the Chancellor in his Budget on 17 March 2004. The Bill also gives the Secretary of State a general power to make payments to people over 60 in the future. It applies to England, Scotland and Wales. The Bill is due to have its second reading on 12 May 2004.

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Summary of main points

In his Budget on 17 March 2004, Gordon Brown announced that, in view of the difficulty which older pensioners have in paying their council tax bills, “for this year, for those over 70, on top of the winter fuel payment, we will pay an additional £100 to each household”.

It later emerged that the *Social Fund Winter Fuel Payments Regulations 2000*, SI 2000/729, could not be used to make these payments and that primary legislation would be required.

The *Age-Related Payments Bill 2003-04*, introduced on 22 April 2004, provides the statutory authority for the Department for Work and Pensions to make £100 payments to households containing a pensioner aged 70 or over at the same time as they make this year’s winter fuel payments.

The effect will be that households containing a pensioner aged 60-69 will receive £200, those containing a pensioner aged 70-79 will receive £300 and those containing a pensioner aged 80 or over will receive £400.

To qualify, the pensioner must have attained the age of 70 by 26 September 2004.

The payments will be made automatically, with the winter fuel payments, by 31 December 2004. Anyone who qualifies but has not received a payment by that date will be able to make a claim until 31 March 2005.

Although these payments are a response to concerns about the impact of council tax rises on pensioners, there is no direct link with council tax bills as pensioners aged 70 or over receiving full Council Tax Benefit will still qualify.

The Bill also gives the Secretary of State a general power to make regulations authorising payments to people over 60 in the future. Such payments may be restricted to particular groups (e.g. defined by age) or for particular purposes.

The Bill and the Explanatory Notes are available at:

<http://pubs1.tso.parliament.uk/pa/cm200304/cmbills/092/2004092.htm>

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I Background

A. Council tax bills

Council tax bills in England rose by 12.9% on average in 2003/04 and it was feared that the increases in 2004/05 might be nearly as large.¹ At the same time the state retirement pension rose by 2.6% in April 2003 and by 2.8% in April 2004. The scale of the increases led to protests from pensioners and others on fixed incomes which attracted a good deal of media coverage. Kent County Council considered giving their pensioners an inflation-only council tax rise, but withdrew the idea on legal advice. While such a rebate would be within the law, there was a risk of legal challenge from other groups seeking a similar rebate.² Elizabeth Winkfield, an 83-year old pensioner from Devon, refused to pay the full 17.9% increase in her council tax bill, saying that she was prepared to go to prison, rather than pay more than an inflation-linked increase.³

B. Budget 2004

Gordon Brown responded to the furore about the impact of council tax increases on pensioners in his Budget statement on 17 March 2004. He concluded by announcing an additional £100 payment this year for households containing someone over 70 to help them with their council tax bills:

And I have one final announcement. This summer, the review of local government finance will report. But I do understand the difficulties today faced by older pensioners on fixed incomes, especially the over-70s. The evidence shows that their council tax bills take a higher share of their income than the rest of the population. So for this year, for those over 70, on top of the winter fuel payment, we will pay an additional £100 to each household. Together with the winter fuel payment, pensioners aged over 70 will this year receive a total of £300, and pensioners aged over 80 a total of £400. I hope that Members on both sides of the House will welcome the extra support for pensioners.⁴

The Red Book contained little further information:

5.36 The Government understands the position of older people on fixed incomes facing pressures such as higher council tax bills and thus a reduction in their standard of living. Council tax consumes a greater proportion of the incomes of older pensioners – who have little or no opportunity to increase their incomes –

¹ In the event, the average rise in England was 5.9%. See Office of the Deputy Prime Minister's website, http://web.archive.org/web/20040216073729/http://www.odpm.gov.uk/stellent/groups/odpm_localgov/documents/page/odpm_locgov_023988.hcsp

² Kent County Council press release, *Kent works to keep council tax down for all*, 18 November 2003

³ "I'll go to prison, says 83-year-old council tax rebel", *Daily Telegraph*, 20 February 2004

⁴ HC Deb 17 March 2004, c 336

than it does for other households. Alongside Council Tax Benefit **the Government believes that it is right to help older pensioner households with their council tax. Pensioner households with someone aged over 70 will therefore receive a £100 payment to help with their council tax bills.** Allowing also for the Winter Fuel Payment, households with someone aged 70 or over will this year receive at least £300. Households with someone aged 80 or over will benefit in total by £400.⁵

A press release from the DWP was not much more forthcoming, but did make it clear that the payment would not affect other benefits:

Britain's over 70s are to enjoy a cash boost of an extra £100 this year. All households with someone aged 70 or over will receive £100 in addition to any other entitlement they are already receiving.

The announcement was made recognising that for many pensioners their council tax bill can take up a large percentage of a fixed income.

The new money is on top of the Winter Fuel Payment where households with someone 70 or over will get a total of £300 (including £200 winter fuel allowance) and every household in the country with a pensioner 80 or over will get £400 (including the enhanced £300 winter fuel payment that they will receive)

(...)

The £100 payment will not affect any other benefits or entitlements.⁶

C. Winter fuel payments

The intention is to pay the £100 with the winter fuel payments which are already made to households containing a pensioner over 60. These payments were originally introduced in 1997/98. There have been several changes to eligibility and amounts since then, but the current rules, contained in the *Social Fund Winter Fuel Payments Regulations 2000*,⁷ provide that a person qualifies for a winter fuel payment if:

- he or she was aged 60 or over in the 'qualifying week' (the week beginning on the third Monday in September); and
- is ordinarily resident in Great Britain throughout the qualifying week; and
- does not belong to one of the categories excluded from a payment; and

⁵ [HM Treasury, Budget 2004](#), March 2004, para 5.36, HC 301, 2003/04

⁶ [DWP press release, £100 budget boost for over 70s](#), 17 March 2004

⁷ [SI 2000/729](#)

- submits a claim in time, if a claim is required.

Those excluded from a payment include:

- people living with partners who receive Income Support (IS) or income-based Jobseekers' Allowance (JSA) and who themselves are entitled to a winter fuel payment (such people qualify for a payment for both partners);
- people serving a custodial sentence;
- people subject to immigration control;
- people who have been in hospital for more than 52 weeks; and
- people who have been in residential care for more than 13 weeks and who receive IS or income-based JSA.

The amounts of payment are:

- £200 for people aged 60-79 who receive Minimum Income Guarantee (now the Guarantee part of Pension Credit) or Income-based Jobseeker's Allowance;
- £200 for people aged 60-79 who do not receive either of these benefits but who live alone or are the only person in the household qualifying for a payment;
- £100 for people aged 60-79 if there are other people in the household who qualify for a payment. (For example a married couple both eligible would receive £100 each and three people living in the same household who were all eligible would receive £100 each);
- £100 for people aged 60-79 living in residential care homes who are not getting Minimum Income Guarantee or Income-based Jobseeker's Allowance;
- £300 for people aged 80 or over who receive Minimum Income Guarantee (this applies if the claimant, their partner or both are over 80);
- £300 for people aged 80 or over who do not receive this benefit but who live alone or are the only person in the household entitled to a payment;
- £150 for people aged 80 or over if there are other people in the household who qualify for a payment;

- £150 for people aged 80 or over living in residential care homes who do not get Minimum Income Guarantee.⁸

D. Why is legislation needed?

The extra £100 for pensioners aged 70 and over cannot just be added to the winter fuel payments by amending the *Social Fund Winter Fuel Payments Regulations 2000* because these are made under provisions in the *Social Security Contributions and Benefits Act 1992* which tie them to heating expenses. Section 138 of that Act sets out the circumstances in which payments may be made from the Social Fund. Subsection (2) provides:

- (2) Payments may also be made out of that fund, in accordance with this Part of this Act, of a prescribed amount or a number of prescribed amounts to prescribed descriptions of persons, in prescribed circumstances to meet expenses for heating which appear to the Secretary of State to have been or to be likely to be incurred in cold weather.

Although the implication of the Budget statement and the accompanying press notices was that the payments would be coupled with the winter fuel payments, the precise mechanism for making the payments had not been determined at that stage.

The reply to a PQ on 31 March 2004 explained that the DWP was still “looking at the most cost-effective and efficient way to deliver payments”. This PQ also estimated the cost of the payment:

Mr. Truswell: To ask the Secretary of State for Work and Pensions (1) what the cost will be in each of the next five years of providing the £100 payment announced in the Budget Statement to pensioners aged 70 years and over to assist with council tax; and what the cost would be in each of those years if the payment were to be made to all those aged 65 years and over; [164229]

(2) if he will make a statement on (a) how and (b) when the £100 payment announced in the Budget Statement to pensioners to assist with council tax will be made. [164230]

Malcolm Wicks: We are looking at the most cost-effective and efficient way to deliver payments.

⁸ Further details of eligibility are contained in the Pension Service leaflet, *Your guide to Winter Fuel Payments 2003*, WFPL1 August 2003, available on the DWP website at: <http://web.archive.org/web/20040117005721/http://www.thepensionerservice.gov.uk/pdf/wpfl1winterfuelleafletaugust2003.pdf>

It is intended that a single one-off payment is made in 2004–05. However, the costs of providing a £100 payment to all households containing a person aged 70 or over and to all households containing a person aged 65 or over in each of the next five years are shown in the table.

	£ million	
	<i>Household aged 70+</i>	<i>Household aged 65+</i>
2004-05	430	660
2005-06	430	640
2006-07	430	630
2007-08	440	620
2008-09	460	620

Notes:

1. Figures are rounded to the nearest £10 million and are given in 2004–05 prices.
2. Figures for 65+ households include the cost of 70+ households.
3. Figures exclude cases in residential care or nursing homes.
4. It is assumed that the £100 is not increased in line with prices.

Source: Estimate based on DWP administrative data and 2002 based population forecasts from the government actuary's department.⁹

There has been some criticism of the Chancellor for making the Budget statement without working out the full details. An article in *The Express* quoted Neil Duncan-Jordan, a spokesman for the National Pensioners' Convention, as saying:

“It is completely wrong to make an announcement like this and not have the details in place.

“It leads us to believe that the Chancellor's statement was made simply to gain publicity.” He added that it was unclear how the Government would decide who would be entitled to the money. Mr Duncan-Jordan said: “Should the £100 be awarded in the same way as the annual winter fuel allowance, as many consumer groups believe, the qualifying date will be September 20 this year - in which case anyone who has turned 70 before then will be entitled to it.

“One-off payments such as this are not the answer to pensioner hardship.

They are often seen by the public as just cynical attempts to grab votes.”¹⁰

An article in *The Sunday Times* suggests that the Chancellor did not realise primary legislation would be necessary for the payments:

⁹ HC Deb 31 March 2004, c 1490W

¹⁰ “‘No plan’ for paying cash: where is £100 bribe coming from Gordon?”, *The Express*, 24 March 2004

An oversight by the government is threatening to delay the £100 bonus announced in the budget to help pensioners with their council tax bills, writes David Cracknell.

Ministers have discovered that to pay the money to the estimated 7m people over 70 they will have to pass an act of parliament authorising the payments. With council tax bills landing on doorsteps this month and Labour expected a drubbing in the local elections in May, the impact of what has been called a "bribe" to voters will be lost.

There are only 10 working parliamentary weeks to get the new act on the statute book before the autumn. It will have to compete for time in the Commons with priority bills announced in the Queen's speech on asylum and immigration, terrorism and university top-up fees.

The Treasury and the Department for Work and Pensions, which is responsible for delivering the promise, insisted last night that the payments would need only a short bill. "We still expect the payments to be made in the autumn," said a source.¹¹

II The Bill

Andrew Smith, Secretary of State for Work and Pensions, introduced the *Age-related Payments Bill* on 22 April 2004. A press notice accompanying the Bill explained:

The Age-Related Payments Bill was introduced in the House of Commons today to enable the payment of £100 to households with someone aged 70 or over following the Chancellor's budget announcement.

The Budget announced a cash boost of £100 per household in recognition of pensioners' council tax bills which can take up a large percentage of fixed income.

The new money will be paid with the 2004-05 Winter Fuel Payments which means that eligible households with someone 70 or over will get £300 (including £200 winter fuel payment) and eligible households in the country with a pensioner 80 or over will get £400 (including the enhanced £300 winter fuel payment).

Andrew Smith, Secretary of State said:

"We are absolutely committed to improving the lives of pensioners. This £100 payment from the Government in 2004/05 is a tax free lump-sum that will help pensioners budget for this years Council Tax and also provide some help with other living expenses.

¹¹ "Pensioners' £100 rebate delayed", *Sunday Times*, 4 April 2004

"We are working hard to encourage pensioners to take up Pension Credit and Council Tax Benefit and this extra payment is another step forward in supporting pensioners."

Editors Notes:

* To qualify for the payment you must be residing here and be 70 on or before 26th September 2004.

* The £100 payment will not affect any other benefits or entitlements.

- Pension Credit replaced the Minimum Income Guarantee and has been payable since October 6th 2003.¹²

A. Entitlement in 2004

Clauses 1-6 deal specifically with the £100 payments for 2004. They will be made to people ordinarily resident in Great Britain who have reached the age of 70 on or before 26 September 2004 (**clause 1**). The conditions for entitlement closely follow those for winter fuel payments but they do not use exactly the same terminology as the *Social Fund Winter Fuel Payments Regulations 2000*.

A single person qualifies for:

- £100 if he/she is in receipt of Pension Credit or is the only qualifying person in the household;
- £50 if he/she is not in receipt of Pension Credit and is living with another qualifying person (**clause 2**)

A member of a couple qualifies for:

- £100 if the other member of the couple is not a qualifying person or if either member of the couple is in receipt of Pension Credit, Income-based Jobseekers' Allowance (JSA) or Income Support (IS). If both members of a couple are in receipt of one of these benefits, only one will qualify. Payment will be made to the member who receives the winter fuel payment;
- £50 if both qualify and neither receives Pension Credit.

There are special provisions governing cases where two or more couples live in the same household (**clauses 2 and 3**).

¹² [DWP press release, Age-related Payments Bill enables £100 cash boost for over 70s, 22 April 2004](#)

A “couple” is defined as “a man and a woman who share a household and who are, or who live as, husband and wife” (**clause 8**).

Someone who lives in a residential care home qualifies for:

- £50 if they do not receive Pension Credit;
- no payment if they do receive Pension Credit (**clause 3**)

People are disqualified from the payment if:

- they have been in hospital for more than 52 weeks;
- are serving a custodial sentence; or
- are subject to immigration control (**clause 4**).

The Secretary of State is required to make payments automatically to everyone he thinks qualifies before 31 December 2004. People who believe they should qualify but who have not received a payment by that date must make a claim before 31 March 2005 (**clause 5**).

The age-related payments will not be taxed and will not affect other social security benefits or tax credits (**clause 6**).

B. Future payments

Clause 7 of the Bill gives the Secretary of State a general power to make regulations giving payments to people who have attained the age of 60. Such payments may be restricted to particular groups (e.g. defined by age) or for particular purposes. They can be one-off or paid at intervals over a specified period. The regulations would be subject to the affirmative procedure in Parliament and would come within the remit of the Social Security Advisory Committee.

C. Cost

The cost of the one-off payment to households with a qualifying person aged 70 or over in 2004 is about £475 million.¹³ The administrative costs are about £6.8 million.¹⁴

¹³ [Explanatory Notes, Bill 92 2003/04](#), para 27

¹⁴ *Ibid*

D. Age discrimination

Article 14 of the European Convention on Human Rights prohibits discrimination on any grounds in the application of Convention rights:

ARTICLE 14

PROHIBITION OF DISCRIMINATION

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The Secretary of State has made the standard statement on Bills that, in his view, its provisions are compatible with Convention rights. The Explanatory Notes justify the age discrimination inherent in the Bill:

The setting of age 70 for entitlement is justified on the grounds that members of this age group are less likely to be in work, have less money and have fixed incomes.¹⁵

Age discrimination legislation is due to be introduced in October 2006 in the UK to implement the EC *Employment Directive*.¹⁶ However, this applies only to age discrimination in employment and not to age discrimination in social security.

¹⁵ [EN, Bill 92 2003/04](#), para 32

¹⁶ Council directive 2000/78/EC of 27 November 2000 and DTI, [Equality and Diversity: Age Matters: Age Consultation 2003](#), July 2003