

# SOCIAL SECURITY (ADDITIONAL PAYMENTS) BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Social Security (Additional Payments) Bill as brought from the House of Commons on 23 June 2022 (HL Bill 34).

- These Explanatory Notes have been written by the Department for Work and Pensions in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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## Overview of the Bill

- 1 The Social Security (Additional Payments) Bill 2022 makes provisions for the Means-tested Additional Payments and the Disability Additional Payment. The first is a £650 payment, paid in two instalments, to those receiving at least 1p of a qualifying means-tested benefit. The Disability Additional Payment is a £150 payment for each individual who is receiving a qualifying disability benefit.
- 2 The Bill consists of eleven clauses:
  - Providing for the Secretary of State or HMRC to make two Means-tested Additional Payments amounting to £650 to those who have a qualifying entitlement to a social security benefit or tax credit.
  - Defining the qualifying entitlement to social security benefits or tax credits for the Means-tested Additional Payments, including there must be a minimum payment made in respect of the qualifying day to be eligible for an additional payment.
  - Dealing with the situation where there may be a qualifying entitlement to more than one social security benefit and/or tax credit.
  - Defining the qualifying entitlement to tax credits for the Means-tested Additional Payments, including situations where HMRC finds that a person should have been entitled to an additional payment retrospectively.
  - Providing for the Secretary of State to make a £150 Disability Additional Payment to an eligible person and dealing with the situation where a person may have a qualifying entitlement to more than one disability benefit.
  - The administration of Additional Payments in reference to the social security benefit, tax credits, or disability benefit which conferred eligibility for the Additional Payment.
  - Providing for the necessary sharing of information between the Secretary of State and HMRC in relation to Additional Payments.
  - Providing that no account is taken of an Additional Payment in considering a person's liability to tax, entitlement to a benefit under an enactment relating to social security or entitlement to tax credit.
  - Interpretation of certain terms.
  - Providing for regulations to be made which will be subject to annulment in pursuance of a resolution of either House of Parliament.
  - The extent, commencement, and short title of the Bill.

## Policy background

- 3 The Chancellor of the Exchequer announced a package of measures on 3 February 2022 to support households across the income distribution in the context of the April increase in the energy price cap, as well as further measures at the Spring Statement 2022.
- 4 Through a package of measures announced on 26 May 2022, the Government will provide over £15 billion of additional support, particularly focused on those with the greatest need. This includes additional payments to over 8 million people across the United Kingdom in

receipt of eligible means-tested benefit payment and over 6 million people who receive eligible disability benefit payment to help with the particular extra costs disabled people may face.

- 5 The Bill requires the Secretary of State or HMRC to make the additional payments to an eligible person.

## Legal background

- 6 The Means-tested Additional Payments and the Disability Additional Payments are new Social Security Payments created by this legislation. Eligibility for these additional payments requires eligibility to qualifying means-tested or disability entitlement, as determined under the legislation for the relevant qualifying benefit. Further details of the relevant legislation for the qualifying benefits are set out below in the clause commentary as required. The existing legislation for the qualifying benefits remains unchanged.
- 7 These payments will be delivered by the Department for Work and Pensions (DWP), Her Majesty's Revenue and Customs (HMRC) and the Ministry of Defence (MoD). This will require data sharing in order to avoid duplication of payments. In addition, data sharing with the Scottish Government and the Northern Ireland Executive will be needed in order to ensure these payments are delivered to recipients there. DWP and HMRC are expected to cooperate in exercising their functions in relation to additional payments through existing data sharing provisions. This Bill does apply some modifications to provisions as required to enable data sharing for the purpose of delivering these new payments. Modifications to s.127 of the Welfare Reform Act 2012 enable data sharing between HMRC and DWP. Modifications to s.3 of the Social Security Act 1998 allow data sharing between DWP, MoD, HMRC and the Department for Communities (DfC) in Northern Ireland. Section 34 of the Scotland Act 2016 is modified to allow data sharing between DWP and the Scottish Ministers.
- 8 These additional payments are being legislated for as a new benefit reserved in Great Britain. Social Security is reserved in Scotland, but there are some exceptions to this reservation which are set out in Schedule 5 to the Scotland Act 1998. Neither of the additional payments falls within any of the exceptions and they are therefore reserved. While some of the disability benefits allowing the claimant to receive the Disability Additional Payments are devolved in Scotland, the Disability Additional Payments themselves are not, as they are new payments for the purpose of responding to increases in cost of living.
- 9 Social Security is a transferred matter in Northern Ireland (NI) (except for tax credits which is an excepted matter) but in the absence of a fully functional Assembly Parliament will legislate for Northern Ireland to provide parity of availability to these Additional Payments for means-tested and disability benefit recipients in Northern Ireland

## Territorial extent and application

- 10 The Bill extends to England and Wales, Scotland and Northern Ireland.
- 11 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

## Fast-track legislation

- 12 The Government intends to ask Parliament to expedite the parliamentary progress of this Bill. In their report on Fast-track Legislation: Constitutional Implications and Safeguards<sup>1</sup>, the House of Lords Select Committee on the Constitution recommended that the Government should provide more information as to why a piece of legislation should be fast-tracked<sup>2</sup>. The justification for fast-tracking the Bill is explained below.
- 13 The legislation is required to be in place before July for the first Means-tested Additional Payment to be paid in July.
- 14 The Bill will therefore need Royal Assent by 30 June 2022 at the very latest.

### What efforts have been made to ensure the amount of time made available for parliament scrutiny has been maximised?

- 15 The Bill was introduced as soon as possible after it became clear that additional payments should be made to provide additional support, particularly focused on those with the greatest need.

### To what extent have interested parties and outside groups been given an opportunity to influence the policy proposal?

- 16 This policy was announced to Parliament on 26 May 2022.
- 17 When the Chancellor announced the Cost of Living support package, Ministers from different Departments spoke with charities and think tanks.
- 18 The package was broadly welcomed by stakeholders as a positive measure to address an immediate need. The Institute for Fiscal Studies (IFS) wrote on 26 May 2022 “On average the poorest households will now be approximately compensated for the rising cost of living this year.”<sup>3</sup> The Resolution Foundation on 27 May 2022 described the package announced as “well-targeted” and “highly progressive”.<sup>4</sup>

### Does the Bill include a sunset clause (as well as any appropriate renewal procedure)? If not, why does the Government judge that their inclusion is not appropriate?

- 19 The Bill provides for the payment of two Means-tested Additional Payments and one Disability Additional Payment only. A sunset clause is therefore not needed.

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<sup>1</sup> House of Lords’ Constitution Committee, 15<sup>th</sup> report of session 2008/09, HL paper 116-I

<sup>2</sup> House of Lords’ Constitution Committee, 15<sup>th</sup> report of session 2008/09, HL paper 116-I, para. 186

<sup>3</sup> [IFS response to government cost of living support package - Institute For Fiscal Studies - IFS ifs.org.uk/publications/16066](https://www.ifs.org.uk/publications/16066)

<sup>4</sup> [Back on target • Resolution Foundation www.resolutionfoundation.org/publications/back-on-target/](https://www.resolutionfoundation.org/publications/back-on-target/)

Are mechanisms for effective post-legislative scrutiny and review in place? If not why does the Government judge that their inclusion is not appropriate?

- 20 The Bill is a measure to provide additional payments to those on low incomes and disabled people and the intention is to deliver those payments immediately.

Has an assessment been made as to whether existing legislation is sufficient to deal with any or all of the issues in question?

- 21 The legislation as it currently stands does not allow the Secretary of State or HMRC to deliver the Means-tested Additional Payments and the Disability Additional Payment.

Has the relevant parliamentary committee been given the opportunity to scrutinise the legislation?

- 22 A memorandum on delegated powers has been prepared for the Delegated Powers and Regulatory Reform Committee.

# Commentary on provisions of Bill

## Means-tested additional payments

### Clause 1: Means-tested additional payments: main payments

- 23 Subsection (1) provides that the Secretary of State makes two Means-tested Additional Payments of £326 and £324 to a person with a qualifying eligible entitlement. Eligibility for the Means-tested Additional Payment is defined by a person having a qualifying entitlement to a social security benefit in respect of the first qualifying day for the first payment and the second qualifying day for the second payment.
- 24 Subsection (2) provides for HMRC to make two Means-tested Additional Payments of £326 and £324 to an eligible person. Eligibility for the Means-tested Additional Payment is defined by a person having a qualifying entitlement to Child Tax Credit or Working Tax Credit but not to a social security benefit in respect of the first qualifying day for the first payment and the second qualifying day for the second payment.
- 25 Subsection (3) defines the social security benefits as:
- a. Universal Credit under the Welfare Reform Act 2012 or the Welfare Reform (Northern Ireland) Order 2015 (S.I. 2015/2006 (N.I. 1));
  - b. State Pension Credit under the State Pension Credit Act 2002 or the State Pension Credit Act (Northern Ireland) 2002;
  - c. An Income-Based Jobseeker's Allowance under the Jobseekers Act 1995 or the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15));
  - d. An Income-Related Employment and Support Allowance under Part 1 of the Welfare Reform Act 2007 or Part 1 of the Welfare Reform Act (Northern Ireland) 2007;
  - e. Income Support under section 124 of the Social Security Contributions and Benefits Act 1992 or section 123 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.
- 26 Subsection (4) provides that the second qualifying day will be no later than 31 October 2022. It also provides that the Secretary of State will specify the second qualifying date in regulations.
- 27 Subsection (5) provides that the second qualifying day specified in regulations can be on a day before the regulations come into force.
- 28 Subsection (6) defines that a person is an individual or a couple (but not each member of a couple separately).

### Clause 2: Qualifying entitlements

- 29 Subsection (1) defines what is meant as a qualifying entitlement to a social security benefit by reference to a qualifying day:
- a. For Universal Credit, a person must have an entitlement to a payment of at least 1p in respect of an assessment period that ends during the period of one month ending with the qualifying day,
  - b. For State Pension Credit, an Income-Based Jobseeker's Allowance, an Income Related Employment and Support Allowance or Income Support, a person must have an entitlement to a payment of at least 1p in respect of any day during the period of one month ending with the qualifying day.

### Example 1: Qualifying entitlement to Universal Credit for the first Means-tested Additional Payment

To be eligible for the first Means-tested Additional Payment a person must have an entitlement to a Universal Credit payment of at least 1p in respect of an assessment period that ends within the month ending on 25 May 2022 (26 April 2022 to 25 May 2022 inclusive).

Example (2): Qualifying Entitlement to Income Support for the first Means-tested Additional Payment.

To be eligible for the first Means-tested Additional Payment a person must have an entitlement to an Income Support payment of at least 1p on any day in the period 26 April 2022 to 25 May 2022.

- 30 Subsection (2) defines what is meant by the qualifying entitlement to Child Tax Credit or Working Tax Credit by reference to a qualifying day. A person must have received a payment or have an award in respect of any day in the period of one month ending with the qualifying day. The payment or award must be expected to total at least £26 for the tax year 2022-23.

### Example 2: Qualifying entitlement to Child Tax Credit for the first Means-tested Additional Payment

To be eligible for the first Means-tested Additional Payment a person must have a payment or an award of Child Tax Credit of at least £26 for the tax year 2022-23, and have received a payment or have an award on any day within the month ending on 25 May 2022 (26 April 2022 to 25 May 2022 inclusive).

- 31 Subsection (3) clarifies that a person will not be eligible for the Means-Tested Benefit Payments if they have received a payment or an award made as a result of fraud.

## Clause 3: Applicable benefits or tax credits

- 32 Subsection (1) provides that where a person has a qualifying entitlement to Universal Credit and to another social security benefit in respect of a qualifying day, the Means-tested Additional Payment is to be paid in reference to entitlement of Universal Credit.
- 33 Subsection (2) provides that where a person has a qualifying entitlement to Child Tax Credit and to Working Tax Credit in respect of a qualifying day, the Means-tested Additional Payment is to be paid in reference to entitlement of Child Tax Credit. This means that the payment will be made in the same manner as, and to the same recipient of, the Child Tax Credit.

### Example 3: A person with a qualifying entitlement to more than one social security benefit

An individual reaches State Pension age on 17 May and is entitled to a Universal Credit payment of at least 1p in respect of an assessment period ending on 21 May. With effect from 17 May, they also now have an entitlement to a State Pension Credit payment of at least 1p. They will be eligible for the Means-tested Additional Payment as a result of their qualifying entitlement to Universal Credit because Universal Credit takes precedence over other social security benefits as set out in Clause 3(1).



#### Clause 4: Means-tested additional payments: final payments

- 34 Subsections (1) and (2) provide that, where a person has an award or payments of tax credits totaling at least £26 for the tax year 2022-23, and did not receive payments or an award in respect of the qualifying day for the first and/or second Mean-tested Additional Payment, but HMRC subsequently finds that the person should have received payments or an award for that eligibility period, then HMRC must pay them the respective Additional Payment if they have not already received it.
- 35 Subsection (3) provides that where a person is entitled under this section to Child Tax Credit and Working Tax Credit, the Means-tested Additional Payment is to be paid in reference to entitlement of Child Tax Credit.
- 36 Subsection (4) clarifies that person will not be eligible for payments made under this section if they are awarded or have received a payment because of fraud.

### Disability Additional Payments

#### Clause 5: Disability Additional Payments

- 37 Subsection (1) provides that the Secretary of State makes a single Disability Additional Payment of £150 to each individual who is entitled to a qualifying payment of a disability benefit that is payable in respect of 25 May 2022.
- 38 Subsection (2) defines the qualifying disability benefits as:
- a. A Disability Living Allowance under section 71 of the Social Security Contributions and Benefits Act 1992 or section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
  - b. A Personal Independence Payment under the Welfare Reform Act 2012 or Part 5 of the Welfare Reform (Northern Ireland) Order 2015;
  - c. An Attendance Allowance under section 64 of the Social Security Contributions and Benefits Act 1992 or section 64 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
  - d. A Constant Attendance Allowance under section 104 of the Social Security Contributions and Benefits Act 1992 or section 104 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
  - e. An Adult Disability Payment under the Disability Assistance for Working Age People (Scotland) Regulations 2022 (S.S.I. 2022/54);
  - f. A Child Disability Payment under the Disability Assistance for Children and Young People (Scotland) Regulations 2021 (S.S.I. 2021/174);
  - g. An Armed Forces Independence Payment under article 24A of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 (S.I. 2011/517);
  - h. A Constant Attendance Allowance under -
    - i. Article 14 or 43 of the Personal Injuries (Civilians) Scheme 1983 (S.I. 1983/686);
    - ii. Article 8 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006 (S.I. 2006/606);
  - i. A Mobility Supplement under -
    - i. Article 25A or 48A of the Personal Injuries (Civilians) Scheme 1983;

- ii. Article 20 of the Naval Military and Air Forces etc. (Disablement and Death) Service Pensions Order 2006.

- 39 Subsection (3) provides that where an individual is entitled to a payment of more than one disability benefit that is payable in respect of 25 May 2022, the Disability Additional Payment is to be paid in reference to the disability benefit that comes first in the list in subsection (2) which the individual has a qualifying entitlement to

## Administration etc

### Clause 6: Administration of additional payments

- 40 Subsection (1) provides that for the purposes of administration of the additional payments, any provisions applying in relation to a social security benefit, tax credits or disability benefit which the Additional Payment is paid in reference to, will apply as if the Additional Payment were a payment or award of the social security benefit, tax credits or disability benefit in question.
- 41 Subsection (2) provides that in subsection (1), the provisions relating to the social security benefit, tax credit or disability benefit that will apply will include:
- a. Overpayment and recovery
  - b. Appeals relating to overpayment and recovery
- 42 Subsections (1) and (2) do not include provisions relating to appeals or reviews about entitlement to the social security benefit, tax credit or disability benefit in question. The provisions relating to the social security benefit, tax credit or disability benefit will be subject to any necessary modifications.
- 43 Subsection (3) provides that the provisions in subsection (1) equally apply to purported additional payments which were not in fact made in compliance with the duties under section (1) and (4).
- 44 Subsection (4) provides that subsection (1) (including with respect to subsection (3)) is subject to regulations made by the Secretary of State, the Treasury or HMRC under subsection (5).
- 45 Subsection (5) provides that regulations may be made in relation to the Additional Payments by the Secretary of State, the Treasury or HMRC to apply or disapply, with or without modifications, any provision applying in relation to a social security benefit, tax credit or disability benefit.
- 46 Subsection (6) provides that regulations made under subsection (5) may have effect from the day the Bill comes into force.

### Clause 7: Cooperation etc between the Secretary of State and HMRC

- 47 Subsection (1) requires cooperation between the Secretary of State and HMRC in the delivery of these payments.
- 48 Subsections (2), (3) and (4) make provisions for data sharing between HMRC, the Secretary of State, Department for Communities in Northern Ireland and Scottish Ministers.
- 49 Subsection (2) modifies s.3 of the Social Security Act 1998 to allow for disclosure of information in relation to the Additional Payments between HMRC, Secretary of State for Work and Pensions and Secretary of State for Defence and Department for Communities.
- 50 Subsection (3) modifies s. 127 of the Welfare Reform Act such that Secretary of State and HMRC are able to share and use information in relation to the Additional Payments.

- 51 Subsection (4) modifies section 34 of the Scotland Act 2016 to allow disclosure in relation to the Additional Payments between the Secretary of State and Scottish Ministers.
- 52 Subsections (5) and (6) make provisions for instances where it is found that a payment has been made by HMRC that should have been made by the Secretary of State, or vice versa. In such cases, providing that no duplicate payment has been made, the payment shall be treated as having been made in accordance with the applicable duty, and therefore is not recoverable. This ensures that a payment does not have to be recovered and reissued by the correct body.

#### Clause 8: Payments to be disregarded for the purposes of tax and social security

- 53 The content of this section is self-explanatory.

### Final provisions

#### Clause 9: Interpretation

- 54 The content of this section is self-explanatory.

#### Clause 10: Regulations

- 55 The content of this section is self-explanatory.

#### Clause 11: Extent, commencement and short title.

- 56 The content of this section is self-explanatory.

## Commencement

57 Section 11(2) sets out that the provisions of the Act commence on Royal Assent.

## Financial implications of the Bill

58 The payments will require additional government spending of over £6bn. Costing will be confirmed at the next fiscal event.

## Parliamentary approval for financial costs or for charges imposed

59 This Bill requires a money resolution because it authorises new charges on the public revenue (namely, the additional payments). A money resolution was passed in the House of Commons on 22 June 2022. The Bill does not require a ways and means resolution because the Bill does not authorise new taxation or other similar charges on the people.

## Compatibility with the European Convention on Human Rights

60 Section 19 of the Human Rights Act 1998 requires a Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the Bill with Convention rights (as defined by section 1 of that Act).

61 The Minister for Work and Pensions (Lords), Baroness Steadman-Scott has made the following statement:

“In my view, the provisions of the Social Security (Additional Payments) Bill are compatible with Convention rights.”

## Statement under the Environment Act 2021

62 The Government’s view is that the Bill does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

## Related documents

63 Press release published the 15 June 2022; Over eight million households to get new cost-of-living payment from 14 July:

[www.gov.uk/government/news/over-eight-million-households-to-get-new-cost-of-living-payment-from-14-july](https://www.gov.uk/government/news/over-eight-million-households-to-get-new-cost-of-living-payment-from-14-july)

## Annex A – Territorial extent and application in the United Kingdom

64 A summary table of the position regarding territorial extent and application of the provisions in the United Kingdom. Paragraph 8 and 9 explains the territorial extent and the application of which the bill is being laid whereby Legislative Consent Motions are not applicable in this instance.

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
1 Means-tested additional payments							
Clause 1	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 2	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 3	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 4	Yes	Yes	N/A	Yes	N/A	Yes	N/A
2 Disability additional payments							
Clause 5	Yes	Yes	N/A	Yes	N/A	Yes	N/A
3 Administration etc							
Clause 6	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 7	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 8	Yes	Yes	N/A	Yes	N/A	Yes	N/A
4 Final provisions							
Clause 9	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 10	Yes	Yes	N/A	Yes	N/A	Yes	N/A
Clause 11	Yes	Yes	N/A	Yes	N/A	Yes	N/A

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