

Age-Related Payments Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Work and Pensions, are published separately as Bill 92 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Mr Secretary Smith has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Age-Related Payments Bill are compatible with the Convention rights.

Age-Related Payments Bill

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[Note: The Bill was presented under S.O. No. 50]

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TO

Make provision for payments by the Secretary of State to persons over the age of 70; and to enable provision to be made for payments by the Secretary of State to persons over the age of 60.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Payments for 2004

1 “Qualifying individual” and “relevant week”

- (1) In this Act “qualifying individual” means an individual who—
- (a) is ordinarily resident in Great Britain on at least one day in the relevant week, and 5
 - (b) attains the age of 70 years on or before the last day of the relevant week.
- (2) In this Act “the relevant week” means the week beginning with Monday 20th September 2004 and ending with Sunday 26th September 2004.

2 Entitlement: basic cases

- (1) A qualifying individual shall be entitled to a payment of £100 if at any time in the relevant week— 10
- (a) he is single, and
 - (b) either— 15
 - (i) he is not living with another qualifying individual, or
 - (ii) he is in receipt of state pension credit.
- (2) A qualifying individual shall be entitled to a payment of £50 if at any time in the relevant week—
- (a) he is single,
 - (b) he is not in receipt of state pension credit, and
 - (c) he is living with another qualifying individual. 20

- (3) A qualifying individual shall be entitled to a payment of £100 if at any time in the relevant week he is part of a couple and –
- (a) the other member of the couple is not a qualifying individual, or
 - (b) either member of the couple is in receipt of –
 - (i) state pension credit, 5
 - (ii) an income-based jobseeker's allowance, or
 - (iii) income support.
- (4) A qualifying individual shall be entitled to a payment of £50 if at any time in the relevant week he is part of a couple and –
- (a) the other member of the couple is a qualifying individual, and 10
 - (b) neither member of the couple is in receipt of state pension credit.
- (5) This section is subject to section 3.

3 Entitlement: special cases

- (1) Where –
- (a) two or more couples live together, and 15
 - (b) two or more individuals, each of whom is part of one of the couples, would (but for this subsection) be entitled to a payment under section 2(3)(a) (and not under section 2(3)(b)),
- then each of those individuals shall instead be entitled to a payment of £50.
- (2) Where each member of a couple would (but for this subsection) be entitled to a payment under section 2(3)(b) – 20
- (a) the member who is to receive a payment in 2004 under the Social Fund Winter Fuel Payment Regulations 2000 (S.I. 2000/729) shall be entitled to the payment under section 2(3)(b), and
 - (b) the other member shall not be entitled to a payment under section 2(3)(b). 25
- (3) Where –
- (a) only one member of a couple is a qualifying individual,
 - (b) he would (but for this subsection) be entitled to a payment under section 2(3), 30
 - (c) the other member of the couple is to receive a payment in 2004 under the Social Fund Winter Fuel Payment Regulations 2000, and
 - (d) the qualifying individual is not to receive a payment in 2004 under those regulations,
- then – 35
- (i) that other member of the couple shall be entitled to a payment of £100, and
 - (ii) the qualifying individual shall not be entitled to a payment under section 2(3).
- (4) Subsection (5) applies to a qualifying individual if – 40
- (a) on the last day of the relevant week he is living in a care home, and
 - (b) throughout the period of 13 weeks ending with the relevant week his ordinary place of residence was a care home.
- (5) Where this subsection applies to a qualifying individual –

- (a) if he is not in receipt of state pension credit at any time in the relevant week, he shall be entitled to a payment of £50 (and he shall not be entitled to a payment under section 2), and
 - (b) if at any time in the relevant week he is in receipt of state pension credit, he shall not be entitled to a payment under section 2 or this section. 5
- (6) Where a person to whom subsection (5) applies is part of a couple, in the application of section 2(3) and (4) to the other member of the couple the person to whom subsection (5) applies shall be treated as a non-qualifying individual.

4 Disqualifications

- (1) A qualifying individual who would (but for this section) be entitled to a payment under section 2 or 3 shall not be entitled to the payment if – 10
- (a) he is in receipt of free in-patient treatment throughout the period of 52 weeks ending with the relevant week,
 - (b) he is in custody throughout the relevant week, or
 - (c) he is subject to immigration control throughout the relevant week. 15
- (2) For the purposes of subsection (1) –
- (a) the reference to receipt of free in-patient treatment shall be construed in accordance with regulation 2(2) and (2A) of the Social Security (Hospital In-Patients) Regulations 1975 (S.I. 1975/555),
 - (b) a person is in custody if he is detained in custody under a sentence imposed by a court, and 20
 - (c) the reference to being subject to immigration control shall be construed in accordance with section 115(9) of the Immigration and Asylum Act 1999 (c. 33).
- (3) Where a person to whom this section applies is part of a couple, in the application of section 2(3) and (4) to the other member of the couple the person to whom this section applies shall be treated as a non-qualifying individual. 25

5 Procedure

- (1) Where before 31st December 2004 the Secretary of State thinks that a person is entitled to a payment under section 2 or 3, the Secretary of State shall make the payment before that date (without a claim being required). 30
- (2) A person who is entitled to a payment under section 2 or 3 and who does not receive it before 31st December 2004, may claim the payment.
- (3) A claim under subsection (2) must – 35
- (a) be in writing to the Secretary of State,
 - (b) be received by the Secretary of State before 31st March 2005, and
 - (c) specify –
 - (i) the claimant's name, address, date of birth and national insurance number (if he has one), and
 - (ii) the date on which the claim is sent to the Secretary of State, and 40
 - (d) include a declaration that the claimant was ordinarily resident in Great Britain on at least one day in the relevant week.
- (4) If the Secretary of State thinks that a person making a claim under subsection (2) is entitled to a payment under section 2 or 3, the Secretary of State shall make the payment. 45

- (5) The provisions of Chapter II of Part I of the Social Security Act 1998 (c. 14) (revision, appeal, &c.) shall apply to a decision of the Secretary of State about a person's entitlement to a payment under section 2 or 3 (whether or not following a claim) as they apply to a decision of the Secretary of State under section 8 of that Act. 5

6 Payment to be disregarded for tax and social security

No account shall be taken of entitlement to a payment under section 2 or 3 in considering a person's –

- (a) liability to tax,
- (b) entitlement to benefit under an enactment relating to social security (irrespective of the name or nature of the benefit), or 10
- (c) entitlement to a tax credit.

Future payments

7 Power to provide for payments

- (1) The Secretary of State may make regulations providing for the making of payments by him to persons who have attained the age of 60 years. 15
- (2) Regulations under subsection (1) may provide for payments to be made –
- (a) to persons in a specified class (which may be defined by reference to age or otherwise);
 - (b) in specified circumstances. 20
- (3) Regulations under subsection (1) may, in particular –
- (a) provide for payments to be made only once, at specified times or over a specified period,
 - (b) provide for exceptions,
 - (c) apply (with or without modifications) an enactment relating to social security (including, in particular, an enactment relating to claims, payments, evidence, revision of decisions, appeals or recovery of payment in error), and 25
 - (d) make different provision for different cases or circumstances.
- (4) Regulations under this section – 30
- (a) shall be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (5) In section 170(5) of the Social Security Administration Act 1992 (c. 5) (Social Security Advisory Committee) in the definition of “the relevant enactments” after paragraph (ah) insert – 35
- “(ai) section 7 of the Age-Related Payments Act 2004;”.

General

8 Interpretation

- (1) In this Act – 40
- “care home” –

- (a) in relation to England and Wales, has the same meaning as that given by section 3 of the Care Standards Act 2000 (c. 14), and
- (b) in relation to Scotland, means accommodation provided by a care home service within the meaning of section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8), 5
- “couple” means a man and a woman who share a household and who are, or who live as, husband and wife,
- “income-based jobseeker’s allowance” has the meaning given by section 1(1) and (4) of the Jobseekers Act 1995 (c. 18),
- “income support” means income support under section 124 of the Social Security Contributions and Benefits Act 1992 (c. 4), 10
- “qualifying individual” has the meaning given by section 1,
- “the relevant week” has the meaning given by section 1,
- “single”, in relation to an individual, means not part of a couple, and
- “state pension credit” has the meaning given by section 1(1) of the State Pension Credit Act 2002 (c. 16). 15
- (2) The provisions of this Act shall apply, with any necessary modifications, to the parties to a polygamous marriage as if they together formed one couple.
- 9 Money**
- Expenditure of the Secretary of State under or by virtue of this Act shall be paid out of money provided by Parliament.* 20
- 10 Extent**
- This Act shall extend only to—
- (a) England and Wales, and
- (b) Scotland. 25
- 11 Citation**
- This Act may be cited as the Age-Related Payments Act 2004.

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To make provision for payments by the Secretary of State to persons over the age of 70; and to enable provision to be made for payments by the Secretary of State to persons over the age of 60.

*Presented by Mr Secretary Smith
supported by
The Prime Minister, Mr Secretary Prescott,
Mr Chancellor of the Exchequer,
Mr Secretary Blunkett, Mr Secretary Darling,
Mr Secretary Murphy, Mr Peter Hain
and Mr Malcolm Wicks.*

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