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STATUTORY INSTRUMENTS

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1980 No. 870 (N.I. 8)

NORTHERN IRELAND

**The Social Security (Northern Ireland) Order 1980**

*Made - - - - 24th June 1980*  
*Laid before Parliament 2nd July 1980*  
*Coming into operation in accordance with Article 1*

ARRANGEMENT OF ORDER

Article

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At the Court at Buckingham Palace, the 24th day of June 1980

Present,

The Queen's Most Excellent Majesty in Council

Whereas it has been made to appear to Her Majesty that by reason of urgency this Order requires to be made without a draft having been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974<sup>(a)</sup> and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Introductory*

*Title, citation and commencement*

1.—(1) This Order may be cited as the Social Security (Northern Ireland) Order 1980.

(2) The Social Security (Northern Ireland) Acts 1975 to 1979 and this Order may be cited together as the Social Security (Northern Ireland) Acts 1975 to 1980.

(3) Subject to paragraph (4), this Order shall come into operation forthwith.

(4) The following provisions of this Order shall come into operation on such day or days as the Head of the Department may by order appoint—

(a) Article 7 (except paragraph (4)) and Articles 8, 9 and 11;

(b) Part I, and paragraph 10, of Schedule 1;

(c) Schedule 2;

(d) in Schedule 3 paragraphs 1, 5 to 8 and 10 and 11;

(e) Part II of Schedule 4.

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(a) 1974 c. 28.

### *Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954(a) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Department” means the Department of Health and Social Services;

“the National Insurance Fund” means the Northern Ireland National Insurance Fund;

“the Pensions Order” means the Social Security Pensions (Northern Ireland) Order 1975(b);

“the principal Act” means the Social Security (Northern Ireland) Act 1975(c);

“the Supplementary Benefits Commission” means the Supplementary Benefits Commission for Northern Ireland.

### *Amendments of certain statutory provisions relating to social security*

#### *Amendments of the Social Security (Northern Ireland) Act 1975*

3. The principal Act shall have effect with the amendments specified in Schedule 1 and references in that Schedule to sections and Schedules are to sections of and Schedules to that Act.

#### *Amendments of the Social Security Pensions (Northern Ireland) Order 1975*

4.—(1) In Article 71(1) of the Pensions Order—

(a) in sub-paragraph (a) (which, among other things, makes regulations under Article 11(3) of that Order prescribing a maximum for the additional component of a Category A retirement pension subject to confirmatory procedure), the words “or 11(3)” shall be omitted;

(b) sub-paragraph (c) (which makes orders under Article 23 increasing earnings factors for any tax year so far as they are relevant to the calculation of the additional component in the rate of any long-term benefit subject to confirmatory procedure) shall be omitted;

and accordingly regulations under the said Article 11(3) and orders under the said Article 23 are subject to negative resolution by virtue of Article 2(3) of that Order and section 156(4) of the principal Act.

(2) At the end of Article 13 of the Pensions Order (which excludes certain sums from the rate of a pension mentioned in section 30(1) of the principal Act) there shall be inserted the words “; but the preceding provisions of this Article shall be disregarded for the purposes of section 27(3)(b)(ii) of that Act (which provides for a person to be treated as retired by reference to the said section 30(1))”.

(3) In Article 17(1) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(d) (which provides that, unless the prescribed person otherwise elects, Article 37(5) of the Pensions Order shall have effect, in a case where pension rights are preserved under approved arrangements, without

(a) 1954 c. 33 (N.I.).

(b) S.I. 1975/1503 (N.I. 15).

(c) 1975 c. 15.

(d) S.I. 1977/610 (N.I. 11).

taking into account any orders under Article 23 of the Pensions Order which were made in the five years ending with the year in which the scheme ceases to be contracted-out and as if relevant earnings factors were increased by 12 per cent. for each of the years there mentioned), for the words from "have effect" onwards there shall be substituted the words "in a case where one or more of the five tax years ending with the tax year in which the scheme ceases to be contracted-out is a relevant year in relation to the earner, have effect, unless the prescribed person otherwise elects in the prescribed manner, subject to the following provisions, that is to say—

- (a) any order made under Article 23 in any of those five tax years increasing an earnings factor shall be disregarded (but without prejudice to any increase made by the last order made under Article 23 before the beginning of those five tax years); and
- (b) any relevant earnings factor derived from contributions in respect of any year (hereafter in this paragraph referred to as 'the relevant contributions year') shall be treated as increased by 12 per cent. compound for each of those five tax years, other than any of those years which—
  - (i) constitutes or begins before the relevant contributions year, or
  - (ii) begins after the final relevant year in relation to the earner."

(4) In Article 40(1) of the Pensions Order (which among other things provides that where a person leaves employment which is contracted-out by reference to a scheme, the scheme may provide for his rights to benefits under the scheme to be transferred to another scheme but, except in prescribed cases, only with his consent and to another contracted-out scheme) for the words "to another contracted-out scheme" there shall be substituted the words "if the other scheme is a contracted-out scheme in relation to an employment of his at the time of the transfer".

(5) In Article 43 of the Pensions Order, after paragraph (1) (which provides that for an occupational pension scheme, other than a public service scheme, to be contracted-out the Occupational Pensions Board must be satisfied that the scheme's resources are sufficient for meeting claims in respect of guaranteed minimum pensions as mentioned in sub-paragraph (a) for paying state scheme premiums as mentioned in sub-paragraph (b) and for meeting on winding up the liabilities and expenses mentioned in sub-paragraph (c) of that paragraph) there shall be inserted the following paragraph—

"(1A) Regulations may—

- (a) provide for paragraph (1) to have effect, in cases specified in the regulations, with the omission of sub-paragraphs (b) and (c) of that paragraph or either of those sub-paragraphs or with the substitution for those sub-paragraphs or either of them of provisions so specified; and
- (b) make such amendments to Article 18(9)(a) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (which refers to sub-paragraphs (b) and (c) of paragraph (1)) as the Department considers appropriate in consequence of regulations made by virtue of sub-paragraph (a) of this paragraph."

(6) It is hereby declared—

- (a) that an approval of arrangements relating to a scheme may be withdrawn in pursuance of Article 46(4) of the Pensions Order at any time notwithstanding that the scheme has been wound up; and

- (b) that on the withdrawal of such an approval after the winding up of the scheme a premium becomes payable in pursuance of Article 46(2) of that Order;

and in paragraph (10) of Article 18 of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (which provides for the cancellation of a certificate issued under paragraph (9) of that Article if the Department considers that it was issued in consequence of a mistake and provides for the payment of a premium in pursuance of the said Article 46(2) on the cancellation of such a certificate) after the word "considers" there shall be inserted the word "(a)" and after the word "mistake" there shall be inserted the words "; or

- (b) that the person upon whom an obligation to pay benefits in respect of an employment is imposed by the policy of insurance or annuity contract to which such a certificate relates is likely to fail to discharge the obligation."

(7) For paragraph (6) of Article 46 of the Pensions Order (which provides that the costs which an accrued rights premium or a pensioner's rights premium is to defray shall, unless the person liable for the premium elects otherwise, be calculated on the basis there mentioned) there shall be substituted the following paragraph—

"(6) In determining the amount of any state scheme premium payable under this Article where one or more of the five tax years ending with the tax year in which the scheme ceases to be contracted-out is a relevant year in relation to the earner, the costs referred to in paragraph (5)(a) and (b) shall, unless the person liable for the premium elects in the prescribed manner that this paragraph shall not apply, be calculated as follows—

- (a) any order made under Article 23 in any of those five tax years increasing a relevant earnings factor shall be disregarded (but without prejudice to any increase made by the last order made under that Article before the beginning of those five tax years); and
- (b) any relevant earnings factor derived from contributions in respect of any year (hereafter in this paragraph referred to as 'the relevant contributions year') shall be treated as increased by 12 per cent. compound for each of those five tax years, other than any of those years which—

(i) constitutes or begins before the relevant contributions year,  
or

(ii) begins after the final relevant year in relation to the earner;

and in this paragraph 'relevant year' and 'final relevant year' have the same meanings as in Article 37 and references to the earner shall be construed as references to the earner in respect of whom or, as the case may be, in respect of whose widow the premium in question has become payable."

(8) In paragraph (3) of Article 47 of the Pensions Order (which provides that the costs the difference between which a limited revaluation premium is to defray shall, unless the person liable for the premium elects otherwise, be calculated on the basis there mentioned) for the words from "be calculated" onwards there shall be substituted the words "unless the person liable for the premium elects in the prescribed manner that this paragraph shall not apply, be calculated as follows—

- (a) any order made under Article 23 increasing an earnings factor and made in any of the five tax years ending with the tax year in which the scheme ceases to be contracted-out shall be disregarded (but without

prejudice to any increase made by the last order made under that Article before the beginning of those five tax years); and

- (b) any relevant earnings factor derived from contributions in respect of any year (hereafter in this paragraph referred to as 'the relevant contributions year') shall be treated as increased by 12 per cent. compound for each of those five tax years, other than any of those years which constitutes or begins before the relevant contributions year."

(9) Without prejudice to their powers apart from this paragraph, the Occupational Pensions Board may withhold or cancel by virtue of this paragraph a contracting-out certificate in respect of a scheme if they consider that the rules of the scheme are such that persons over particular ages may be prevented from participating in the scheme; and without prejudice to the effect apart from this paragraph of paragraphs (1) and (2) of Article 51 of the Pensions Order (which among other things provide that certain alterations of the rules of certain schemes are not to be made without the consent of the Board), those paragraphs shall apply to an alteration of the rules of a scheme mentioned in paragraph (1) of that Article which would make the rules such as aforesaid as those paragraphs apply to an alteration mentioned in that paragraph.

(10) In Schedule 1 to the Pensions Order (into which a paragraph 4A providing for further increases of a retirement pension was inserted by the Social Security (Northern Ireland) Order 1979(a)), after the words "increase under paragraph 4" in paragraph 2(4) there shall be inserted the words "or 4A".

(11) In paragraph 6 of Schedule 2 to the Pensions Order—

- (a) after head (b) of sub-paragraph (3) (under which regulations may provide for treating a premium as actually paid in certain circumstances) there shall be inserted the following head—

"(bb) for treating part of a premium payable in prescribed circumstances in respect of a person as actually paid and for modifying Part IV in relation to a case in which such a part is so treated;";

- (b) at the end of sub-paragraph (3) there shall be inserted the words "and the Department may accept payments in connection with a case in which a premium or part of it is treated as actually paid and shall pay into the National Insurance Fund any sums received by it by way of such payments";

- (c) after sub-paragraph (3) there shall be inserted the following sub-paragraph—

"(4) Without prejudice to sub-paragraph (3), regulations may provide—

- (a) that for the purpose of extinguishing accrued rights to guaranteed minimum pensions and rights to receive such pensions a state scheme premium is to be treated as actually paid on a date determined under the regulations;

- (b) for disregarding the effect of regulations made by virtue of head (a) in a case where the premium in question is not paid on or before the date when it becomes payable or such later date as may be determined under the regulations; and

- (c) for obtaining repayment of benefits paid by virtue of regulations so made in a case where the effect of the regulations is to be disregarded, and, where the repayment is obtained from assets of the relevant scheme, for reducing the sums payable under the scheme to the beneficiary by the amount of the repayment.”

#### *Miscellaneous amendments*

5.—(1) In the definition of “public service pension scheme” in Article 2(2) of the Pensions Order (which provides among other things that the definition includes any scheme prescribed by such regulations as are there mentioned) after the word “includes” there shall be inserted the words “any occupational pension scheme established, with the concurrence of the Department of the Civil Service, by or with the approval of another government department and”.

(2) Section 156(4) of the principal Act (which, by virtue of Article 2(3) of the Pensions Order, provides for regulations and orders made under that Order by the Department to be subject to negative resolution) shall have effect in relation to orders under Article 61 of that Order (under which a public service pension scheme may be modified or wound up by an order made by an authority designated by the Minister for the Civil Service or the Department of the Civil Service) as if the reference in that subsection to the Department were a reference to an appropriate authority within the meaning of the said Article 61.

(3) Regulations under subsection (1) of section 81 of the principal Act or paragraph (5) of Article 8 of the Child Benefit (Northern Ireland) Order 1975(a) (which among other things enable regulations to be made about the manner of paying benefit) may provide that, in relation to payments of benefit under the principal Act, or as the case may be of child benefit, which in pursuance of regulations under the said subsection (1) or paragraph (5) have been credited to a bank account or other account under arrangements made with the agreement of the beneficiary, section 119 of the principal Act (which among other things provides for the repayment of overpayments of benefit under that Act and is applied to child benefit by Article 10(1) of the Child Benefit (Northern Ireland) Order 1975) shall have effect with such modifications as are prescribed by the regulations; but any modifications so prescribed shall not apply in relation to any payment of benefit unless notice of the effect of the modifications was given to the beneficiary in accordance with the regulations before he agreed to the arrangements.

(4) In paragraph (3) “modifications” includes additions, omissions and amendments.

(5) In Article 4(3) of the Child Benefit (Northern Ireland) Order 1975 (which among other things enables regulations to provide that a person who ceases in any week to be a child for the purposes of Part II of that Order shall be treated as continuing to be such a child for a prescribed period ending not more than 13 weeks after the end of that week) the words from “ending” to “that week” shall be omitted.

(6) In Schedule 1 to the Child Benefit (Northern Ireland) Order 1975 at the end of paragraph 1 there shall be added the following sub-paragraph—

“(2) In sub-paragraph (1) the reference to a child in the care of the Department includes a reference to a child in the care of a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972.”.

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(a) S.I. 1975/1504 (N.I. 16).

(7) It is hereby declared that in sub-paragraph (a) of Article 14(1) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (which among other things enables regulations to provide that certain sums shall be deemed for the purposes of the principal Act to be such earnings as are mentioned in that sub-paragraph) the reference to the purposes of the principal Act includes the purposes of the Pensions Order.

### *Maternity grant*

#### 6.—(1) Where—

- (a) the date of a woman's confinement is the same as or later than the appointed date; or
- (b) a woman claims a maternity grant by virtue of regulations under section 21(5) of the principal Act in a case where the week which is treated in pursuance of the regulations as that in which she is expected to be confined includes or begins after the appointed date,

the following provisions of the principal Act shall have effect in relation to the confinement or claim with the following amendments, namely,—

- (i) in section 12, in subsection (1)(d) (under which maternity benefit comprising maternity grant and maternity allowance is a contributory benefit under Chapter I of Part II of that Act) for the words from the beginning to "allowance" there shall be substituted the words "maternity allowance" and in subsection (2) (which specifies the benefits which are short-term benefits for the purposes of that Part) the words "maternity grant" shall be omitted;
- (ii) in section 13(1) (which relates to contribution conditions) the words "Maternity grant . . . Class 1, 2 or 3" shall be omitted;
- (iii) in section 21 (under subsections (1) and (2) of which certain contribution conditions are to be satisfied in order to confer entitlement to a maternity grant) for the words from "and either" onwards in subsection (1) there shall be substituted the words "and satisfies prescribed conditions as to residence and presence in Northern Ireland" and subsection (2) and in subsection (5) the words from "and may modify the contribution conditions" onwards shall be omitted;
- (iv) at the end of section 129(2) (which specifies the benefits which are to be paid out of money appropriated by Measure instead of from the National Insurance Fund) there shall be inserted the words "(g) a maternity grant";
- (v) in Schedule 3, paragraphs 2 and 11 (which relate to contribution conditions for a maternity grant) and in paragraph 8(3) the words "a maternity grant" shall be omitted;
- (vi) in the definition of "short-term benefit" in Schedule 17 the words "maternity grant" shall be omitted.

(2) In paragraph (1) "the appointed date" means such date as the Head of the Department may by order appoint for the purposes of paragraph (1); and subsection (1) of section 23 of the principal Act (which among other things defines the expression "confinement" for the purposes of the Chapter which contains that section) shall have effect as if sub-paragraphs (a) and (b) of paragraph (1) were provisions of that Chapter.

(3) References in any statutory provision to maternity benefit under the principal Act shall continue to be references to maternity grant and maternity allowance under that Act.



(4) Nothing in paragraph (1) affects the operation of paragraphs 9, 10, 12 and 13 of Schedule 3 to the principal Act (which relate to entitlement to certain benefits by reference to other benefits which include a maternity grant) so far as they relate to a maternity grant to which paragraph (1) does not apply.

*Amendments of certain statutory provisions relating to supplementary benefit and family income supplement*

*Amendments of the Supplementary Benefits (Northern Ireland) Order 1977*

7.—(1) The Supplementary Benefits (Northern Ireland) Order 1977(a) shall have effect with the amendments specified in Part I of Schedule 2, and except where the context otherwise requires references in that Part to Articles and Schedules are to Articles of and Schedules to that Order.

(2) The Supplementary Benefits Commission is hereby abolished.

(3) In accordance with paragraph (1) but subject to section 14 of the Social Security Act 1980(b) Articles 2 to 41 of the Supplementary Benefits (Northern Ireland) Order 1977, and Schedule 1 to that Order, are to have effect, after the coming into force of paragraph (1) and Part I of Schedule 2, as set out in Part II of Schedule 2 (which reproduces those provisions as amended by Part I of Schedule 2 and with consequential adjustments to headings).

(4) Until the coming into force of paragraph (1) and Part I of Schedule 2, Article 2 of the Supplementary Benefits (Northern Ireland) Order 1977 (which provides for the interpretation of that Order) shall have effect as if at the end of that Article there were added the following paragraph—

“(4) In determining for the purposes of this Order whether a person (in this paragraph referred to as “the provider”) has to provide for, or for the requirements of, another person to or in respect of whom any payments are made otherwise than by the provider, the other person shall not by reason only of the payments or the amount of them be treated as a person who is, or whose requirements are, provided for otherwise than by the provider.”.

*Amendments of the Family Income Supplements Act (Northern Ireland) 1971*

8.—(1) In section 1 of the Family Income Supplements Act (Northern Ireland) 1971(c) (of which subsection (1) specifies the persons who constitute a family for the purposes of that Act)—

(a) for paragraphs (a) and (b) of subsection (1) there shall be substituted the following—

“(a) a man or woman engaged and normally engaged in remunerative full-time work; and

(b) if the person mentioned in the preceding paragraph is one of a married or unmarried couple, the other member of the couple; and”;

(b) at the end of that subsection there shall be inserted the words “except that persons who include a married or unmarried couple shall not be a family for the purposes of this Act if one of the couple is engaged and normally engaged as aforesaid and the other member of the couple is receiving such payments as may be specified by regulations”;

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(a) S.I. 1977/2156 (N.I. 27).

(b) 1980 c. 30.

(c) 1971 c. 8 (N.I.).

(c) after that subsection there shall be inserted the following subsection—

“(1A) It shall be the duty of the Department to appoint persons to perform the functions conferred by this Act on supplement officers.”.

(2) For any reference to the Supplementary Benefits Commission in that Act, except in section 7(1), there shall be substituted a reference to a supplement officer.

(3) At the end of section 6(1) of that Act (which provides for the determination of certain questions relating to family income supplement) there shall be inserted the words “, and regulations may provide for different aspects of the same question to be dealt with by different supplement officers”.

(4) In section 7(1) of that Act (which provides for an appeal from a determination of the Supplementary Benefits Commission) for the words from “the Supplementary” where they first occur to “Commission” in the second place where it occurs there shall be substituted the words “a supplement officer including a refusal”.

(5) In section 10 of that Act (which specifies the matters for which provision may be made by regulations)—

(a) after paragraph (b) of subsection (2) there shall be inserted the following paragraph—

“(bb) for determining the circumstances in which persons are to be treated as being or not being members of the same household;”;

(b) after subsection (2) there shall be inserted the following subsections—

“(2A) Regulations may also provide—

(a) for specified questions to be referred to the Appeal Tribunal or other bodies or persons exercising functions under the Social Security (Northern Ireland) Act 1975, the Child Benefit (Northern Ireland) Order 1975 or the Supplementary Benefits (Northern Ireland) Order 1977 and for the application of provisions of this Act or any of those statutory provisions, with or without modifications, to the questions and to decisions given in consequence of references in pursuance of the regulations;

(b) for such decisions, and any other specified decisions given in pursuance of any of those statutory provisions, to be effective or conclusive for specified purposes of this Act; and

(c) for dealing, by postponement or otherwise, with cases in which questions are referred by virtue of paragraph (a);

and section 6(1) shall have effect subject to any regulations made in pursuance of this subsection.

(2B) Any power conferred by this Act to make regulations—

(a) where the power is expressed to be exercisable for alternative purposes, may be exercised in relation to the same case for all or any of those purposes;

(b) is without prejudice to the power to make any other such regulations;

(c) includes power to make thereby such incidental or supplementary provision as appears to the Department to be expedient for the purposes of the regulations.”.

(6) In section 16(1) of that Act (which defines expressions used in that Act) the following definitions shall be inserted at the appropriate places in alphabetical order—

“ ‘married couple’ means a man and a woman who are married to each other and are members of the same household;”;

“ ‘supplement officer’ means a person appointed in pursuance of section 1(1A);”;

“ ‘unmarried couple’ means a man and a woman who are not married to each other but are living together as husband and wife;”;

and the definition of “single woman” shall be omitted.

#### *Provisions supplementary to Articles 7 and 8*

9.—(1) The Department may by regulations make such provision as it considers appropriate for dealing with transitional matters connected with or arising out of the coming into operation of any provision of Article 7 or 8 or Schedule 2 or 4 including in particular, but without prejudice to the generality of the preceding provisions of this paragraph,—

- (a) provision for modifying any statutory provision passed or made before this Order;
- (b) provision for treating anything done under a statutory provision which is altered or replaced by a provision of Article 7 or 8 or Schedule 2 or 4 as done under the statutory provision as so altered or replaced; and
- (c) provision for the payment of supplementary benefit, of an amount specified in or determined in pursuance of the regulations, to a person who, apart from the provision, would by virtue of this Order cease to be entitled to supplementary benefit or become entitled to supplementary benefit of an amount smaller than that to which he would have been entitled apart from this Order;

and regulations made by virtue of this paragraph may be made so as to have effect from a date before that on which they are made but not before the date on which this Order is made.

(2) An order under Article 1(4) which brings into force a provision of this Order which is mentioned in paragraph (1)—

- (a) may contain such transitional provisions, including savings, as the Department considers appropriate in connection with or arising out of the coming into force of that provision; and
- (b) may, without prejudice to the generality of sub-paragraph (a), provide that the provision shall come into force in relation to such cases only as are specified in the order and accordingly that in relation to other cases the law shall remain unaffected by that provision;

and the Department may by order vary or revoke any provision which by virtue of this paragraph is included in another order.

(3) Nothing in either of the preceding paragraphs shall be construed as derogating from the other of them.

(4) Regulations made under paragraph (1) shall be subject to negative resolution.

*Miscellaneous*

*Repeal of certain provisions of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971*

10. The following provisions of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971(a), namely,—

- (a) sections 1(4) and 11(5) (which provide that where a payment has been made under section 1(1) or in pursuance of an emergency enforcement order out of moneys due to a person or his spouse from certain public funds, no benefit shall be paid to that person to meet an exceptional need unless the Supplementary Benefits Commission in their absolute discretion specially determine to pay such benefit), and
- (b) sections 1(5) and 11(6) (which provide that nothing in the provisions of the Family Income Supplements Act (Northern Ireland) 1971 or the Supplementary Benefits (Northern Ireland) Order 1977 relating to appeals shall apply in relation to payments referred to in paragraph (a) or matters arising in consequence of such payments or special determinations under section 1(4) or 11(5)),

shall cease to have effect.

*Leave required for appeal from local tribunal to Commissioner*

11.—(1) No appeal shall lie to a Commissioner within the meaning of the principal Act from a decision which is given after the commencement of this paragraph by a local tribunal appointed under section 97 of that Act and is the unanimous decision of the members of the tribunal except—

- (a) with the leave of the person who was the chairman of the tribunal when the decision was given or, in a case prescribed by regulations, with the leave of a person appointed to act as chairman of such a local tribunal who is selected in accordance with regulations; or
- (b) if he refuses leave, with the leave of such a Commissioner,

and regulations may make provision with respect to the manner in which and the time within which applications must be made for leave under this paragraph and with respect to the procedure for dealing with such applications.

(2) Regulations under paragraph (1) shall be subject to negative resolution.

(3) Subsection (5) of section 101 of the principal Act (under which, among other things, an appeal to a Commissioner from a decision of a local tribunal must be brought within 3 months beginning with the date when notice of the decision is given to the claimant) shall have effect, in relation to an appeal for which leave is required by virtue of this Article, as if for the reference to that date there were substituted a reference to the date when leave under paragraph (1) is given for the appeal.

*Proof of decisions of statutory authorities*

12.—(1) A document bearing a certificate which—

- (a) is signed by a person authorised in that behalf by the Department; and
- (b) states that the document, apart from the certificate, is a record of a decision of a relevant authority,

shall be conclusive evidence of the decision; and a certificate purporting to be signed as aforesaid shall be deemed to be so signed unless the contrary is proved.

(2) In paragraph (1) "a relevant authority" means each of the following, namely,—

- (a) a Commissioner within the meaning of the principal Act;
- (b) a local tribunal appointed in pursuance of section 97 of the principal Act;
- (c) an insurance officer so appointed;
- (d) a tribunal constituted in accordance with Schedule 4 to the Supplementary Benefits (Northern Ireland) Order 1977;
- (e) a benefit officer within the meaning of that Order; and
- (f) a supplement officer within the meaning of the Family Income Supplements Act (Northern Ireland) 1971.

#### *Regulations and orders*

13. Subsections (2) and (3) of section 155 of the principal Act (which among other things make provision about the extent of powers to make regulations and orders) shall apply to powers to make regulations and orders conferred by Articles 9 and 15(2) and by Article 1(4) as extended by Articles 9 and 15(2) as they apply to powers to make regulations and orders conferred by that Act but as if for references to that Act there were substituted references to Articles 9 and 15(2) and Article 1(4) as so extended.

#### *Expenses*

14. There shall be paid out of the National Insurance Fund into the Consolidated Fund, at such times and in such manner as the Department of Finance may direct, such sums as the Department may estimate (in accordance with directions given by the Department of Finance) to be the amount of any expenses incurred by a government department by virtue of this Order in connection with benefits payable out of the National Insurance Fund, excluding any such expenses which the Department of Finance directs shall be disregarded for the purposes of this Article.

#### *Consequential and minor amendments*

15.—(1) The enactments specified in Schedule 3 shall have effect subject to the amendments there specified.

(2) An order under Article 1(4) which brings into operation a provision of Schedule 3 may contain such transitional provisions, including savings, as the Department considers appropriate in connection with or arising out of the coming into operation of that provision; and the Department may by order vary or revoke any provision which by virtue of this paragraph is included in another order.

(3) Section 26 of the Supplementary Benefits &c. Act (Northern Ireland) 1966(a) (which contained provision corresponding to Article 25 of the Supplementary Benefits (Northern Ireland) Order 1977 for the recovery of payments in cases of misrepresentation or non-disclosure) shall have effect and be deemed always to have had effect as if that Order had not repealed that section; but subsections (2) to (4) of that section shall not apply to any question to which paragraphs (2) to (4) of that Article apply by virtue of this Order.

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(a) 1966 c. 28 (N.I.).

*Repeals*

16. The enactments set out in Schedule 4 are hereby repealed to the extent specified in the third column of that Schedule, subject to Article 1(4) as to the dates of operation of that Schedule.

*N. E. Leigh,*

Clerk of the Privy Council.

SCHEDULES

Article 3.

SCHEDULE 1

AMENDMENTS OF THE PRINCIPAL ACT

PART I

AMENDMENTS RELATING TO SIMILAR TREATMENT FOR MEN AND WOMEN

1.—(1) Section 41(6) and section 65(4) (under which a married woman residing with her husband is not entitled to an increase in benefit in respect of dependent children by virtue of that section unless her husband is incapable of self-support) shall be amended as follows—

- (a) in section 41(6), for “incapable of self-support” substitute “not engaged in any one or more employments from which his weekly earnings exceed the amount specified in relation to the benefit or beneficiary in question in Schedule 4, Part IV, column (3)”;
- (b) in section 65(4), for “not incapable of self-support” substitute “engaged in any one or more employments from which his weekly earnings exceed the amount specified in relation to the benefit or pension in Schedule 4, Part V, paragraph 11 or, as the case may be, paragraph 12”.

(2) Section 41(6) and section 65(4) as amended by sub-paragraph (1) shall cease to have effect on the coming into operation of this sub-paragraph.

2. In sections 44(3)(a) and 47(1)(a) (which provide for increases of specified amounts in a woman’s unemployment or sickness benefit, maternity allowance or invalidity pension to be made for periods during which, among other things, her husband is incapable of self-support), for “incapable of self-support” substitute “not engaged in any one or more employments from which his weekly earnings exceed the amount so specified”.

3. The following provisions, that is to say,—

- (a) in section 44(3), paragraph (b),
- (b) in section 47(1), paragraph (b), and
- (c) in section 66(1), paragraph (c),

(by virtue of which certain benefits are increased for any period during which the beneficiary has living with him and is maintaining such a relative as is there mentioned) shall cease to have effect; but a person who, immediately before the date when this paragraph comes into operation, was entitled to an increase by virtue of any of the paragraphs specified in sub-paragraph (a), (b) or (c), shall continue to be entitled to it for any period, not exceeding two years beginning with that date, during which, if the paragraph in question and any regulations having effect by virtue of the paragraph immediately before that date were still in force, he would have been, and would not have ceased to be, entitled to the increase by virtue of that paragraph.

4. In sections 44(3)(c), 46(2) and 66(1)(d) (which relate to increases of benefit by reference to a female person, not a child, who has the care of a child or children in respect of whom the beneficiary is entitled to child benefit), for "female person (not a child)" substitute—

- (a) in sections 44(3)(c) and 66(1)(d) "person who is neither the spouse of the beneficiary nor a child";
- (b) in section 46(2) "person who is neither the spouse of the pensioner nor a child";

and in sections 46(4) and 66(6)(b) (which refer to the female person mentioned in sections 46(2) and 66(1)(d) respectively) for the words from "female person" to "residing" substitute "person there referred to is a female residing".

5.—(1) The following provisions, that is to say,—

- (a) in section 44, subsection (5), and
- (b) in section 47, subsection (2),

(which provide that, in the case of unemployment or sickness benefit or invalidity pensions payable to certain persons over pensionable age, the benefit or pensions shall not be increased under provisions providing for increases in respect of certain periods and shall only be increased by the amounts of the increases which would be made in relevant retirement pensions where the rates of those pensions would be calculated under provisions relating to the partial satisfaction of contribution conditions) shall cease to have effect; and after section 47 insert the following section—

"Rate of increase where associated retirement pension is attributable to reduced contributions."

47A. Where a person is entitled to unemployment or sickness benefit under section 14(2)(b) or (c) or to an invalidity pension by virtue of section 15(2) of this Act and would have been entitled only by virtue of section 33 to the retirement pension by reference to which the rate of the said benefit or invalidity pension is determined, the amount of any increase of the said benefit or invalidity pension attributable to sections 44 to 47 of this Act shall not be determined in accordance with those sections but shall be determined in accordance with regulations."

(2) Accordingly in section 44(1) for "Subject to the provisions of this section" substitute "Subject to section 47A", in section 44(2) for "Subject to the following subsections" substitute "Subject to subsection (4) below and section 47A" and in section 47(1) for "Subject to subsection (2) below" substitute "Subject to section 47A".

6. In section 66(1)(a) (which provides for increases of injury benefit and in certain cases of disablement pension for periods during which the beneficiary's wife is residing with him or he is contributing to the maintenance of his wife at a specified rate), for "wife" in both places where it occurs substitute "spouse".

7. In Schedule 17 (which contains a glossary of expressions) omit the entry relating to the expression "Incapable of self-support" (including both paragraphs in the second column of the entry) and insert after the entry relating to the expression "Pensionable age" the following entry—

" 'Permanently incapable of self-support'.

A person is 'permanently incapable of self support' if (but only if) he is incapable of supporting himself by reason of physical or mental infirmity and is likely to remain so incapable for the remainder of his life."

## PART II

### OTHER AMENDMENTS

8. After section 35(4) (which among other things provides that an attendance allowance shall not be payable to a person for any period preceding the date on which he makes a claim for it) insert the following subsection—

" (4A) Notwithstanding anything in subsection (4) above, provision may be made by regulations for an attendance allowance to be paid to a person for a period preceding the date on which he makes a claim for it if such an allowance has previously been paid to or in respect of him."

9. In section 96(2) (which among other things prevents the Department from reviewing a decision of the Department on a question within section 93(1) or 95(1)(a) or (c) while an appeal is pending on a question of law arising in connection with the decision and provides for an appeal on a question of law raised with a view to the review of such a decision)—

- (a) for "Such a decision" substitute "A decision on a question within section 93(1)";
- (b) for the words from "and section 94" onwards substitute "and, on a review of a decision on a question within section 93(1), any question of law may be referred under subsection (1) of section 94, or where it is not so referred may be the subject of an appeal under subsection (3) of that section, and the other provisions of that section shall apply accordingly".

10. In section 100(4) (which provides that an appeal to a local tribunal from a decision of an insurance officer must be brought within 21 days after the date of the decision or within a further time allowed by the chairman of the tribunal) for "21 days after the date of the decision" substitute "28 days beginning with the date when the Department gives to the claimant notice in writing of the decision"; and in section 101(5) (which provides that an appeal to a Commissioner from a decision of a local tribunal must be brought within 3 months from the date of the decision or a further period allowed by the Commissioner) for "from the date of the decision of the local tribunal, or" substitute "beginning with the date when the proper officer of the local tribunal gives to the claimant notice in writing of the decision or within".

11. In section 111 (which among other things provides that an assessment of a single medical practitioner under that section must be by reference to a period not exceeding 6 months and that regulations may make provision with respect to cases in which the practitioner considers that a final assessment can be made by reference to a longer period), for "6 months" in subsections (2) and (3) substitute "12 months".

12. For section 119(4)(cc) (which provides that regulations may modify subsections (1) to (2A) of that section in relation to payments in respect of a person which are paid to another person on his behalf) substitute—

"(cc) modifying those subsections in relation to sums by way of benefit which are paid to another person on behalf of the beneficiary,".

13. Section 131 (which provides for payments out of the Northern Ireland National Insurance Fund towards the cost of vocational training, etc., for persons entitled to disablement benefit) shall cease to have effect.

14. Section 149 and Schedule 16 (which relate to schemes promoted by representatives of earners and their employers for supplementing certain rights to benefit in respect of industrial injuries and diseases which are conferred on the earners by the principal Act) shall cease to have effect.

15. In paragraph 1 of Schedule 1 (which among other things provides for earnings from different employments to be aggregated for the purpose of calculating the amount of any Class 1 contributions in respect of the earnings), after sub-paragraph (1) insert the following sub-paragraph—

"(1A) Where earnings in respect of employments which include any contracted-out employment and any employment which is not a contracted-out employment are aggregated under sub-paragraph (1) above and the aggregated earnings are not less than the current lower earnings limit, then, except as may be provided by regulations, the amount of the Class 1 contribution in respect of the aggregated earnings shall be the aggregate of the amounts obtained—

- (a) by applying the rates of Class 1 contributions applicable to contracted-out employments—
  - (i) to the part of the aggregated earnings attributable to any contracted-out employments, or



(ii) if that part exceeds the current upper earnings limit, to so much of that part as does not exceed that limit; and

(b) if that part is less than that limit, by applying the rates of Class 1 contributions applicable to employments which are not contracted-out employments to so much of the remainder of the aggregated earnings as, when added to the part aforesaid, does not exceed that limit;

and in relation to earners paid otherwise than weekly any reference in the preceding provisions of this sub-paragraph to the lower or upper earnings limit shall be construed as a reference to the prescribed equivalent of that limit.”.

16. In Schedule 12, at the end of paragraph 2 add the following—

“Provided that the Department may arrange with any other government department that any medical appeal tribunal consisting of a chairman and two medical practitioners appointed or recognised by that department shall be a medical appeal tribunal for the purposes of this Act.”.

## SCHEDULE 2

## Article 7.

### AMENDMENTS OF THE SUPPLEMENTARY BENEFITS (NORTHERN IRELAND) ORDER 1977

#### PART I

#### THE AMENDMENTS

1. In Article 2—

(a) insert the following definitions at the appropriate places in alphabetical order in paragraph (2)—

“‘benefit officer’ means a person appointed in pursuance of Article 33(2);”,

“‘married couple’ means a man and a woman who are married to each other and are members of the same household;”,

“‘modifications’ includes additions, omissions and amendments, and related expressions shall be construed accordingly;”,

“‘prescribed’ means specified in or determined in accordance with regulations;”,

“‘regulations’ means regulations made by the Department under this Order;”,  
and

“‘unmarried couple’ means a man and a woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;”;

(b) in paragraph (2) omit the definitions of “‘blind’”, “‘the Commission’”, “‘school’”, “‘supplementary pension’” and “‘supplementary allowance’”;

(c) after paragraph (2) insert the following paragraph—

“(2A) Regulations may make provision as to the circumstances in which a person is to be treated for the purposes of any specified provision of this Order—

(a) as being or not being a member of the same household as another person;

(b) as responsible for another person.”.

2. In Article 3—

(a) for sub-paragraphs (a) and (b) of paragraph (1) substitute the following sub-paragraphs—

“(a) a supplementary pension if he is one of a married or unmarried couple of whom one is or both are over the age of 65 or if he is not one of such a couple and has attained pensionable age; and

(b) a supplementary allowance in any other case;”;

(b) at the end of paragraph (1) insert the following paragraphs—

“(1A) Paragraph (1)(a) shall have effect until the prescribed date as if the words from ‘is one’ to ‘couple and’ were omitted.

(1B) Regulations may provide for a person’s entitlement under paragraph (1) to continue during prescribed periods of the person’s temporary absence from Northern Ireland.”;

(c) at the end of paragraph (3) insert “; and regulations may provide that the requirements which by virtue of this paragraph are not included in a person’s requirements include or exclude prescribed requirements”.

3. In Article 4—

(a) in paragraph (1) for “shall be determined by the Commission” substitute “and any other question relating to supplementary benefit which arises under this Order shall be determined by a benefit officer except so far as this Order or regulations provide otherwise; and regulations may provide for different aspects of the same question to be dealt with by different benefit officers”;

(b) after paragraph (1) insert the following paragraph—

“(1A) Regulations may provide for prescribed questions to be determined otherwise than by benefit officers and, without prejudice to the generality of the preceding provisions of this paragraph,—

(a) for prescribed questions to be referred to bodies or persons exercising functions under the Social Security (Northern Ireland) Act 1975 and for the application of provisions of that Act, with or without modifications, to the questions and to decisions given in consequence of references in pursuance of the regulations;

(b) for such decisions, and any other prescribed decisions given in pursuance of that Act, to be effective or conclusive for prescribed purposes of this Order; and

(c) for dealing, by postponement or otherwise, with cases in which questions are referred by virtue of sub-paragraph (a).”;

(c) omit the words from the second “and” in paragraph (2)(a) to the end of the Article.

4. In Article 5—

(a) in paragraph (1)—

(i) for the words from the beginning to “person” substitute “There shall be payable in prescribed cases, to a person who is entitled or would if he satisfied prescribed conditions be entitled to a supplementary pension or allowance, supplementary benefit”;

(ii) after “payment” insert “of a prescribed amount”;

(b) in paragraph (2)—

(i) for “the Commission may have regard” substitute “regard shall be had, so far as regulations so provide,”;

(ii) for the words from “Part III” onwards substitute the words “regulations made in pursuance of paragraph 1(2)(b) of Schedule 1”.

**5. For Article 6 substitute the following Article—**

***“Provision for cases of urgent need***

**6.—(1) In urgent cases supplementary benefit shall be payable in accordance with this Order as modified by virtue of this Article; and regulations may—**

- (a) prescribe the cases which are urgent cases for the purposes of this Article;**
- (b) provide that in relation to such cases any of the provisions of Articles 5, 7 to 9, 12 and 14 and Schedule 1 shall have effect with prescribed modifications.**

**(2) Any sums paid to a person by virtue of paragraph (1), except a sum as to which it has been determined in accordance with regulations that it is not to be recovered in pursuance of this paragraph, shall be recoverable from him by the Department by making deductions from prescribed benefits or in any other manner.”.**

**6. In Article 7 for “The Commission may determine that” substitute “Except in prescribed cases,” and for the words from “by regulations” onwards substitute “and is available for employment; and regulations may make provision as to—**

- (a) what is and is not to be treated as employment for the purposes of this Article; and**
- (b) the circumstances in which a person is or is not to be treated for those purposes as available for employment.”.**

**7. For Articles 9, 10 and 11 substitute the following Article—**

***“Exclusion from supplementary benefit of certain employed persons and pupils***

**9.—(1) A person who is engaged in remunerative full-time work shall not be entitled to supplementary benefit; and regulations may make provision as to the circumstances in which a person is or is not to be treated for the purposes of this paragraph as so engaged.**

**(2) A person who has not attained the age of 19 and is receiving relevant education shall not be entitled to supplementary benefit except in prescribed circumstances.**

**(3) Regulations may make provision as to the circumstances in which a person is or is not to be treated for the purposes of paragraph (2) as receiving relevant education; and in this Article “relevant education” means full-time education by attendance at an establishment recognised by the Department as being, or as comparable to, a college or school.”.**

**8. In Article 12(1) for “the requirement to provide for any other person” substitute “requirements of another person which are to be treated as his by virtue of any other provision of this Order and are not to be disregarded by virtue of this paragraph as it applies to the other person”.**

**9. In Article 13—**

- (a) in paragraph (1), for “requirement to provide for” substitute “requirements of” and for “Article 9 (exclusion of persons in full-time employment)” substitute “Article 9(1)”;**
- (b) in paragraph (2), for the words from “in accordance” onwards substitute “or another person in accordance with regulations”;**
- (c) in paragraph (3), for the words from the beginning to “work)” substitute “Regulations made by virtue of Article 9(1) providing for a person not to be treated as engaged in remunerative full-time work”;** and
- (d) omit paragraphs (4) to (7).**

10. For Article 14 substitute the following Article—

*“Modification of right to supplementary allowance in certain cases*

14.—(1) Where—

- (a) a person is registered for employment in pursuance of Article 7 and is not receiving unemployment benefit under the Social Security (Northern Ireland) Act 1975; and
- (b) it appears to a benefit officer that the person refuses or neglects to maintain himself or any other person whom for the purposes of this Order he is liable to maintain,

the officer may give him in the prescribed manner a direction in writing requiring him to attend a course of instruction or training which is approved or provided by the Department and is specified in the direction.

(2) A person to whom such a direction is given may, in accordance with rules made by the Department, appeal against the direction to the Appeal Tribunal; and on an appeal in pursuance of this paragraph the tribunal shall either confirm or cancel the direction.

(3) A direction under paragraph (1) shall not come into force—

- (a) until the expiration of the period within which, without any extension of time, an appeal against it may be brought in pursuance of paragraph (2); and
- (b) if during that period such an appeal is brought, until the appeal is withdrawn or the direction is confirmed by the tribunal.

(4) A person in respect of whom a direction under paragraph (1) is in force shall not be entitled to a supplementary allowance while he fails to comply with the direction.

(5) Regulations may make provision with respect to the consequences of the cancellation of a direction which has come into force.”

11. In Article 15, for paragraphs (1) and (2) substitute the following paragraph—

“(1) Regulations may make provision—

- (a) for the requirements of any person to be met in prescribed circumstances by the provision of goods or services instead of by making the whole or part of any payment to which he would otherwise be entitled under this Order;
- (b) for any provision of this Order or regulations under it to be disregarded in connection with the provision of goods or services by virtue of sub-paragraph (a);
- (c) as to the manner of providing goods and services to be provided by virtue of that sub-paragraph.”;

and accordingly paragraph (3) of that Article shall be paragraph (2).

12. In Article 16—

(a) for paragraph (1) substitute the following paragraph—

“(1) Where a prescribed payment which apart from this paragraph falls to be made from public funds in the United Kingdom or under the law of any other member State is not made on or before the date which is the prescribed date in relation to the payment, then—

- (a) in the case of a payment from such public funds, the authority responsible for making it may abate it by the relevant amount; and
- (b) in the case of any other payment, the Department shall be entitled to receive the relevant amount out of the payment;

and in this paragraph “the relevant amount”, in relation to a payment, means the amount which a benefit officer determines has been paid by

way of supplementary benefit and would not have been paid if the payment had been made on the date aforesaid.

(1A) Where—

- (a) a payment by way of prescribed income is made after the date which is the prescribed date in relation to the payment; and
- (b) a benefit officer determines that an amount which has been paid by way of supplementary benefit would not have been paid if the said payment had been made on the date aforesaid,

the Department shall be entitled to recover that amount from the person to whom it was paid.”;

(b) in paragraph (2)—

- (i) in sub-paragraph (a), for the words from “, or to” to “security benefit”)” substitute “any prescribed benefit”;
- (ii) in sub-paragraph (c) and where the words first occur after that sub-paragraph, for the words from “, or of” to “security” substitute “the prescribed”;
- (iii) for “the Commission determine” substitute “a benefit officer determines”;
- (iv) for the words from “equal” where it last occurs onwards substitute “equal to the amount of the prescribed benefit”;

(c) for paragraph (3) substitute the following paragraphs—

“(3) Where, in determining the amount of any supplementary benefit, the requirements of any person have been taken into account for the whole or part of a period in respect of which there might be afforded or granted to him—

- (a) a rent allowance under Article 59 of the Rent (Northern Ireland) Order 1978;
- (b) a rent rebate under Article 6 of the Housing Finance (Northern Ireland) Order 1977;
- (c) a rent rebate under Article 9 of the Housing (Northern Ireland) Order 1976;

and before the whole or part of the allowance or rebate has been afforded or granted, the Department of Finance in the case of an allowance or rebate specified in sub-paragraph (a) or (c) or the Northern Ireland Housing Executive in the case of a rebate specified in sub-paragraph (b), is notified by a benefit officer of the amount by which the amounts paid under this Order exceed what the benefit officer has determined they would have been had the allowance or rebate been afforded or granted before the amount of the supplementary benefit was determined, the amount of the allowance or rebate to be afforded or granted shall be reduced by the amount so notified.

(4) Where a benefit officer makes—

- (a) a determination in pursuance of the preceding provisions of this Article or in pursuance of Article 28(3) of the Rates (Northern Ireland) Order 1977 in respect of an amount of supplementary benefit; or
- (b) a determination altering on review or refusing to review a determination in respect of such an amount which has been made for the purposes of this Article or the said Article 28(3) by a benefit officer or on appeal,

the relevant person may appeal to the Appeal Tribunal against the determination; and Article 20(3) shall apply to an appeal under this Article as it applies to an appeal under that Article.

(5) In paragraph (4) “the relevant person” means the person who is entitled, apart from paragraph (1), (2) or (3), or Article 28(3) of the Rates

(Northern Ireland) Order 1977, to the prescribed payment or the prescribed benefit or the allowance or rebate in question or, as the case may be, to whom the amount mentioned in paragraph (1A) was paid.”.

13. In Article 19—

- (a) in paragraph (1), for the words from the beginning to “Article”, substitute “Regulations may” and for “and Part II of Schedule 2” substitute “; and nothing in any other provision of this Order shall be construed as prejudicing the generality of this paragraph”;
- (b) in paragraph (2)—
  - (i) for the words preceding sub-paragraph (a) substitute “Regulations may make provision—”;
  - (ii) in sub-paragraph (a) after “manner” insert “and within such time”;
  - (iii) for sub-paragraph (b) substitute the following sub-paragraph—

“(b) for enabling a person to be appointed to exercise, on behalf of a claimant who may be or become unable to act in relation to his claim, any power in relation to it which the claimant is entitled to exercise;”;
  - (iv) in sub-paragraph (d), for “the Commission” in both places where it occurs substitute “a benefit officer” and omit “National Insurance”;
  - (v) in sub-paragraph (e) for the words from “such period” to “not being” substitute “a prescribed period of not”;
  - (vi) omit “and” at the end of sub-paragraphs (e) and (ee);
  - (vii) for sub-paragraph (f) substitute the following sub-paragraphs—

“(f) as to the day on which entitlement to a supplementary pension or allowance is to begin or end or the amount of a supplementary pension or allowance is to change;

(g) as to the time and manner of paying supplementary benefit and the information and evidence to be furnished in connection with payments of it;

(h) for withholding payments of a supplementary pension or allowance in prescribed circumstances and for subsequently making withheld payments in prescribed circumstances;

(i) as to the circumstances and manner in which payments of supplementary benefit may be made to another person on behalf of the beneficiary for any purpose (which may be to discharge, in whole or in part, an obligation of the beneficiary or any other person);

(j) for the payment or distribution of supplementary benefit to or among persons claiming to be entitled to it on the death of any person and for dispensing with strict proof of their title; and

(k) for the payment of travelling expenses in connection with claims for supplementary benefit.”;
- (c) accordingly omit paragraphs (3) and (4) (which relate to the payment of benefit to a person other than the beneficiary and to travelling expenses in connection with claims for benefit).

14. In Article 20—

- (a) in paragraph (1), for the words from “the Commission, or” onwards substitute “a benefit officer (including a determination to refuse to review a determination) with respect to the claim or benefit, except that no appeal shall lie by virtue of this paragraph in a case falling within Article 14(2), 16(4) or 25(3)”;

- (b) omit paragraph (2) (which is superseded by the amendment in paragraph 3(b) of this Schedule);
- (c) in paragraph (3) omit sub-paragraph (b) and in sub-paragraph (c) for "the Commission" substitute "a benefit officer".

15. In Article 20A, in paragraphs (1) and (5) omit "National Insurance" and in paragraph (5) omit the words from "and includes" onwards.

16. In Article 22—

- (a) in paragraph (1) after sub-paragraph (b) insert "and
- (c) a person shall be liable to maintain another person throughout any period in respect of which the first-mentioned person has, on or after the date of the making of the Social Security (Northern Ireland) Order 1980 and either alone or jointly with a further person, given an undertaking in writing in pursuance of immigration rules within the meaning of the Immigration Act 1971 to be responsible for the maintenance and accommodation of the other person.";
- (b) after paragraph (2) add the following paragraph—
  - "(3) A document bearing a certificate which—
  - (a) is signed by a person authorised in that behalf by the Secretary of State; and
  - (b) states that the document apart from the certificate is, or is a copy of, such an undertaking as is mentioned in paragraph (1)(c), shall be conclusive evidence for the purposes of this Order of the undertaking in question; and a certificate purporting to be signed as aforesaid shall be deemed to be so signed until the contrary is proved."

17. In Article 23—

- (a) in paragraph (1), for "relative" the Commission" substitute "person" the Department" and for "relative for" substitute "person for";
- (b) in paragraph (2) for "No" substitute "Except in a case falling within Article 22(1)(c), no";
- (c) in paragraphs (2) to (4), for "relative" and "relative's" substitute respectively "person" and "person's";
- (d) at the end of paragraph (3) insert "except that, in a case falling within Article 22(1)(c), that sum shall not include any amount which is not attributable to supplementary benefit (whether paid before or after the making of the order).";
- (e) omit paragraph (6).

18. In Article 24—

- (a) for "Commission" wherever it occurs, except in paragraph (7), substitute "Department";
- (b) omit paragraph (7).

19. In Article 25—

- (a) in paragraph (2), for the words from "referred to" onwards substitute "determined by a benefit officer";
- (b) for paragraph (3) substitute the following paragraph—
  - "(3) A person from whom, in pursuance of a determination of a benefit officer under paragraph (2), an amount is recoverable under this Article may appeal to the Appeal Tribunal against the determination; and Article 20(3) shall apply to an appeal under this paragraph as it applies to an appeal under that Article."

(c) in paragraph (4) for the words from "benefit under" onwards substitute "prescribed benefits";

(d) for paragraph (5) substitute the following paragraph—

"(5) Paragraphs (2) and (3) shall apply to any question as to whether any amount or what amount is recoverable by the Department under section 22 of the National Assistance Act (Northern Ireland) 1948 or section 26 of the Supplementary Benefits &c. Act (Northern Ireland) 1966 (which contains provisions corresponding to paragraph (1)) and paragraph (4) shall apply to an amount recoverable under either of those sections—

(a) as if for any reference in those paragraphs to this Article there were substituted references to the said section 22 or 26, as the case may be; and

(b) as respects a question relating to recovery under the said section 22 and an amount recoverable under that section, as if the words "paid by way of supplementary benefit" in paragraphs (2) and (4) were omitted."

20. In Article 28 omit "or the Commission".

21. In Article 30—

(a) in paragraph (1) for "to which this Article applies" substitute "of regulations under Article 13(2)";

(b) omit paragraph (2).

22. In Article 32(3) for "34(a)" substitute "34(1)(a)".

23. In Article 33—

(a) in paragraph (1) for the words from the beginning to "Order" substitute "It shall be the duty of the Department to make arrangements with a view to ensuring that benefit officers and other officers of the Department concerned with the administration of this Order exercise their functions";

(b) for paragraphs (2) to (4) substitute the following paragraph—

"(2) It shall be the duty of the Department to appoint persons to perform the functions conferred by virtue of this Order on benefit officers."

24. In Article 36—

(a) in paragraph (1) for the words from "the Commission may provide" to "afforded by the Commission" substitute "the Department may provide courses, to be known as re-establishment courses, at which (either in consequence of a direction under Article 14(1) or otherwise) such persons may be afforded";

(b) omit paragraphs (2) and (3).

25. In Article 37—

(a) for "Commission" substitute "Department";

(b) for "maintaining centres" substitute "providing courses";

(c) for "re-establishment centres" substitute "re-establishment courses".

26. In Article 39—

(a) in paragraph (3), for the words from the beginning to "it" substitute "Regulations may provide for such modifications of this Order as appear to the Department"; and

(b) in paragraph (4), for the words from the beginning to "adjustments" substitute "The power to make regulations conferred by paragraph (3)".



27. After Article 40 insert the following Article—

*“Modification of Order for special cases*

40A. Regulations may provide for any provision of this Order except this Article to have effect with prescribed modifications—

- (a) in cases involving a marriage celebrated under a law which permits polygamy or a marriage during the subsistence of which a party to it is at any time married to more than one person;
- (b) in cases where the Department considers that without the modifications the provision in question would give rise to an anomaly or an injustice or would produce impractical consequences.”.

28. In Article 41—

(a) for paragraph (1) substitute the following paragraph—

“(1) Regulations of the following kinds, namely—

- (a) regulations of which the effect is to increase an amount which is specified in regulations made in pursuance of Article 5 or which, by virtue of regulations made in pursuance of sub-paragraph (b) of Article 6(1), is specified in a provision mentioned in that sub-paragraph;
- (b) regulations made in pursuance of Article 40A(b) except regulations made for the purpose only of consolidating regulations which they revoke;
- (c) regulations made in pursuance of paragraph 1 or 2 of Schedule 1 except regulations made for the purpose only of consolidating regulations which they revoke,

shall take effect on such date as may be specified in the regulations but shall cease to have effect upon the expiration of a period of six months from the said date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly; and the power to make regulations falling within sub-paragraph (a) or (c) shall not be exercisable without the consent of the Department of Finance.”;

(b) in paragraph (3)—

- (i) for “The” substitute “Any”;
- (ii) for the words from “Article” to “Schedule 1” substitute “this Order”;
- (iii) omit sub-paragraph (d);

(c) after paragraph (3) add the following paragraph—

“(4) Without prejudice to the generality of any power conferred by this Order to make regulations, regulations may provide for a person to exercise a discretion in dealing with any matter.”.

29. For Schedule 1 substitute the following Schedule—

“SCHEDULE 1

Articles 4, 5, 6, 19 and 41

PROVISIONS FOR DETERMINING RIGHT TO  
BENEFIT AND AMOUNT OF BENEFIT

*General*

1.—(1) The amount of any supplementary benefit to which a person is entitled shall, subject to the following provisions of this Schedule, be the amount by which his resources fall short of his requirements.

(2) For the purpose of ascertaining that amount—

(a) a person's requirements shall be determined in accordance with paragraph 2; and

(b) a person's resources shall be calculated in the prescribed manner; and, without prejudice to the generality of head (b), regulations in pursuance of that paragraph may provide for a person to be treated as possessing resources which he does not possess and for disregarding resources which a person does possess.

(3) Regulations may provide that a person whose resources as ascertained in pursuance of sub-paragraph (2)(b) or a prescribed part of them exceed or exceeds a prescribed amount shall not be entitled to a supplementary pension or allowance.

#### *Requirements*

2.—(1) For the purposes of this Schedule requirements shall be of three categories, namely,—

(a) normal requirements;

(b) additional requirements; and

(c) housing requirements;

and the items to which each category relates and, subject to sub-paragraph (3), the weekly amounts for those categories shall be such as may be prescribed.

(2) A person's requirements shall consist of normal requirements together with requirements, if any, of such of the other categories as are applicable in his case.

(3) In the case of a person specified in the first column of the following Table his normal requirements shall be taken to be the weekly amount specified in relation to him in the second column of that Table; and in that Table—

“householder” means a person who is not one of a married or unmarried couple but who satisfies prescribed conditions with respect to living accommodation; and

“relevant person” means a person whose requirements include those of another person by virtue of paragraph 3(1).

#### **TABLE**

<i>Person</i>	<i>Weekly amount</i>
1. A relevant person who— (a) is such a person as is mentioned in Article 3(1)(a); or (b) is not such a person as is so mentioned but satisfies prescribed conditions.	The aggregate of the sums for the time being specified in Article 8(1)(a) of the Social Security Pensions (Northern Ireland) Order 1975 and column (3) of paragraph 6 of Part IV of Schedule 4 to the Social Security (Northern Ireland) Act 1975 (which specify the amounts of the basic component of a Category A retirement pension and the increase of the pension for an adult dependant).
2. A relevant person not falling within paragraph 1 of this Table.	The aggregate of the sums for the time being specified in paragraph 1 of Part I of the said Schedule 4 and column (3) of paragraph 1(a) of the said Part IV (which specify the amounts of unemployment or sickness benefit and the increase of it for an adult dependant of a beneficiary under pensionable age).

- |   |  |
|---|--|
| <p>3. A householder who—</p> <p>(a) has attained pensionable age;<br/>or</p> <p>(b) has not attained pensionable age but satisfies prescribed conditions.</p> | <p>The sum for the time being specified in the said Article 8(1)(a).</p>       |
| <p>4. A householder not falling within paragraph 3 of this Table.</p>   | <p>The sum for the time being specified in paragraph 1 of the said Part I.</p> |

(4) Regulations may provide that the preceding sub-paragraph shall have effect with prescribed modifications.

(5) Notwithstanding anything in the preceding provisions of this paragraph, regulations may provide for a person to be treated as having no normal requirements in prescribed cases.

*Aggregation of requirements and resources*

3.—(1) Where two persons are a married or unmarried couple, their requirements and resources shall be aggregated and treated—

- (a) until the prescribed date, as those of the man; and
- (b) on and after that date, as those of such one of them as satisfies prescribed conditions or, where both of them satisfy or neither of them satisfies those conditions, as those of such one of them as they may jointly nominate in accordance with regulations or, in default of such a nomination, as the Department may determine.

(2) Where a person is responsible for, and is a member of the same household as, another person and they are not a married or unmarried couple, then—

- (a) if the other person is a child or is excluded from entitlement to supplementary benefit by Article 9(2); or
- (b) if the circumstances are such as are prescribed,

their requirements and resources shall be aggregated and treated as those of the first-mentioned person.

(3) Regulations may provide that, in a case falling within sub-paragraph (2), sub-paragraph (1) shall apply in relation to the other person with prescribed modifications.

*Exclusion of small payments*

4. Where the amount of any supplementary benefit would be less than a prescribed amount, the benefit shall not be payable except in prescribed circumstances.”.

30.—(1) In Schedule 5 paragraph 5 (which relates to transitional cases involving a pension under the Old Age Pensions Act (Northern Ireland) 1936 or an assistance grant under the National Assistance Act (Northern Ireland) 1948) shall cease to have effect, but any supplementary benefit payable to a woman instead of to another person by virtue of sub-paragraph (4) of the said paragraph 5 shall continue to be so payable subject to any regulations relating to that sub-paragraph which are made in pursuance of Article 9(1).

(2) In paragraph 7 of Schedule 5 (which among other things provides for certain proceedings for the recovery of sums which could previously have been taken by the National Assistance Board for Northern Ireland to be taken by the Supplementary Benefits Commission for Northern Ireland in some cases and the Department in others) for heads (a) and (b) of sub-paragraph (1) substitute “by the Department”, and omit sub-paragraph (3).

PART II  
PROVISIONS OF THE SUPPLEMENTARY BENEFITS (NORTHERN IRELAND)  
ORDER 1977 AS AMENDED

*[In the provisions set out in this Part of this Schedule the words inserted by this Order are printed in heavy type and omissions made by this Order indicated by dots.]*

PART I  
INTRODUCTORY

*Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“ **benefit officer** ” means a person appointed in pursuance of Article 33(2);

.....  
“ **child** ” means a person under the age of 16;

“ **child benefit** ” means benefit under the Child Benefit (Northern Ireland) Order 1975;

.....  
“ **the Department** ” means the Department of Health and Social Services;

“ **married couple** ” means a man and a woman who are married to each other and are members of the same household;

“ **modifications** ” includes additions, omissions and amendments, and related expressions shall be construed accordingly;

“ **pensionable age** ” means, in the case of a man, the age of 65, and, in the case of a woman, the age of 60;

“ **place of employment** ” has the same meaning as in section 19 of the Social Security (Northern Ireland) Act 1975;

“ **prescribed** ” means specified in or determined in accordance with regulations;

“ **regulations** ” means regulations made by the Department under this Order;

.....  
“ **supplementary benefit** ” means any benefit payable under this Order;

.....  
“ **trade dispute** ” has the same meaning as in section 19 of the Social Security (Northern Ireland) Act 1975;

“ **unmarried couple** ” means a man and a woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances;

“ **voluntary organisation** ” means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members thereof.

(2A) Regulations may make provision as to the circumstances in which a person is to be treated for the purposes of any specified provision of this Order—

(a) as being or not being a member of the same household as another person;

(b) as responsible for another person.

(3) For the purposes of section 42(2) of the Northern Ireland Constitution Act 1973 (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

PART II  
SUPPLEMENTARY BENEFIT

*Right to and amount of supplementary benefit*

*Right to supplementary benefit*

3.—(1) Subject to the provisions of this Order, every person in Northern Ireland of or over the age of 16 whose resources are insufficient to meet his requirements shall be entitled to benefit as follows—

(a) a supplementary pension if he is one of a married or unmarried couple of whom one is or both are over the age of 65 or if he is not one of such a couple and has attained pensionable age; and

(b) a supplementary allowance in any other case;

and to such benefit by way of a single payment to meet an exceptional need as may be determined under Article 5.

(1A) Paragraph (1)(a) shall have effect until the prescribed date as if the words from "is one" to "couple and" were omitted.

(1B) Regulations may provide for a person's entitlement under paragraph (1) to continue during prescribed periods of the person's temporary absence from Northern Ireland.

(2) Where, under the provisions of this Order, the requirements and resources of any person fall to be aggregated with, and treated as, those of another person, that other person only shall be entitled to supplementary benefit.

(3) The requirements of any person to be taken into account for the purposes of this Order do not include any medical, surgical, optical, aural or dental requirements; and regulations may provide that the requirements which by virtue of this paragraph are not included in a person's requirements include or exclude prescribed requirements.

*Determination of right to and amount of supplementary benefit*

4.—(1) Subject to Articles 20 and 20A (appeals), the question whether any person is entitled to supplementary benefit, and the amount of any such benefit and any other question relating to supplementary benefit which arises under this Order shall be determined by a benefit officer except so far as this Order or regulations provide otherwise; and regulations may provide for different aspects of the same question to be dealt with by different benefit officers.

(1A) Regulations may provide for prescribed questions to be determined otherwise than by benefit officers and, without prejudice to the generality of the preceding provisions of this paragraph,—

(a) for prescribed questions to be referred to bodies or persons exercising functions under the Social Security (Northern Ireland) Act 1975 and for the application of provisions of that Act, with or without modifications, to the questions and to decisions given in consequence of references in pursuance of the regulations;

(b) for such decisions, and any other prescribed decisions given in pursuance of that Act, to be effective or conclusive for prescribed purposes of this Order; and

(c) for dealing, by postponement or otherwise, with cases in which questions are referred by virtue of sub-paragraph (a).

(2) Entitlement to, and the amount of, any supplementary benefit shall be determined in accordance with the provisions of this Part and Schedule 1.

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*Supplementary benefit to meet exceptional need*

5.—(1) There shall be payable in prescribed cases, to a person who is entitled or would if he satisfied prescribed conditions be entitled to a supplementary pension or allowance, supplementary benefit by way of a single payment of a prescribed amount to meet an exceptional need.

(2) In determining whether supplementary benefit shall be paid under this Article, and the amount of any such benefit, regard shall be had, so far as regulations so provide, to any resources which would otherwise fall to be disregarded under regulations made in pursuance of paragraph 1(2)(b) of Schedule 1.

*Provision for cases of urgent need*

6.—(1) In urgent cases supplementary benefit shall be payable in accordance with this Order as modified by virtue of this Article; and regulations may—

- (a) prescribe the cases which are urgent cases for the purposes of this Article;
- (b) provide that in relation to such cases any of the provisions of Articles 5, 7 to 9, 12 and 14 and Schedule 1 shall have effect with prescribed modifications.

(2) Any sums paid to a person by virtue of paragraph (1), except a sum as to which it has been determined in accordance with regulations that it is not to be recovered in pursuance of this paragraph, shall be recoverable from him by the Department by making deductions from prescribed benefits or in any other manner.

*Power to require registration for employment*

7. Except in prescribed cases, the right of any person to a supplementary allowance shall be subject to the condition that he is registered for employment in such manner as may be prescribed and is available for employment; and regulations may make provision as to—

- (a) what is and is not to be treated as employment for the purposes of this Article; and
- (b) the circumstances in which a person is or is not to be treated for those purposes as available for employment.

*Exclusion from supplementary benefit of persons not resident in the United Kingdom for a qualifying period*

8. A person shall not be entitled to supplementary benefit if he has not (except as may be otherwise prescribed by regulations made by the Department under this Article) been resident in the United Kingdom for a period of five years immediately preceding the date on which his claim for supplementary benefit was made.

*Exclusion from supplementary benefit of certain employed persons and pupils*

9.—(1) A person who is engaged in remunerative full-time work shall not be entitled to supplementary benefit; and regulations may make provision as to the circumstances in which a person is or is not to be treated for the purposes of this paragraph as so engaged.

(2) A person who has not attained the age of 19 and is receiving relevant education shall not be entitled to supplementary benefit except in prescribed circumstances.

(3) Regulations may make provision as to the circumstances in which a person is or is not to be treated for the purposes of paragraph (2) as receiving relevant education; and in this Article "relevant education" means full-time education by attendance at an establishment recognised by the Department as being, or as comparable to, a college or school.

*Persons affected by trade disputes*

12.—(1) Subject to paragraph (2), where a person—

- (a) is, by reason of a stoppage of work which is due to a trade dispute at his place of employment, without employment for any period during the stoppage; and
- (b) has not during that stoppage become bona fide employed elsewhere in the occupation which he usually follows, or become regularly engaged in some other occupation;

his requirements for that period shall be disregarded for the purposes of supplementary benefit except so far as those requirements include requirements of another person which are to be treated as his by virtue of any other provision of this Order and are not to be disregarded by virtue of this paragraph as it applies to the other person.

(2) Paragraph (1) does not apply in the case of a person who proves that he is not participating in or directly interested in the trade dispute which caused the stoppage of work.

*Recovery of supplementary benefit paid after return to full-time employment following trade dispute*

13.—(1) Where a person—

- (a) has, by reason of a stoppage of work which was due to a trade dispute at his place of employment, been without employment for any period during the stoppage; and
- (b) is a person whose requirements for that period (except so far as those requirements included the requirements of any other person) fall to be disregarded for the purposes of supplementary benefit by virtue of Article 12 (persons affected by trade disputes); and
- (c) becomes engaged in remunerative full-time work again in consequence of the ending of the stoppage;

Article 9(1) shall not apply in his case until the expiration of the period of 15 days from the beginning of the engagement mentioned in sub-paragraph (c); but paragraph (2) shall have effect in such a case.

(2) Any sum paid to a person on an award of supplementary benefit made to him during the period of 15 days specified in paragraph (1) by virtue of that paragraph shall be recoverable from him or another person in accordance with regulations.

(3) Regulations made by virtue of Article 9(1) providing for a person not to be treated as engaged in remunerative full-time work shall not apply to a person to whom paragraph (1) applies as regards the engagement mentioned in sub-paragraph (c) of that paragraph.

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*Modification of right to supplementary allowance in certain cases*

14.—(1) Where—

- (a) a person is registered for employment in pursuance of Article 7 and is not receiving unemployment benefit under the Social Security (Northern Ireland) Act 1975; and
- (b) it appears to a benefit officer that the person refuses or neglects to maintain himself or any other person whom for the purposes of this Order he is liable to maintain,

the officer may give him in the prescribed manner a direction in writing requiring him to attend a course of instruction or training which is approved or provided by the Department and is specified in the direction.

(2) A person to whom such a direction is given may, in accordance with rules made by the Department, appeal against the direction to the Appeal Tribunal; and on an appeal in pursuance of this paragraph the tribunal shall either confirm or cancel the direction.

(3) A direction under paragraph (1) shall not come into force—

- (a) until the expiration of the period within which, without any extension of time, an appeal against it may be brought in pursuance of paragraph (2); and
- (b) if during that period such an appeal is brought, until the appeal is withdrawn or the direction is confirmed by the tribunal.

(4) A person in respect of whom a direction under paragraph (1) is in force shall not be entitled to a supplementary allowance while he fails to comply with the direction.

(5) Regulations may make provision with respect to the consequences of the cancellation of a direction which has come into force.

*Supplementary benefit in kind*

15.—(1) Regulations may make provision—

- (a) for the requirements of any person to be met in prescribed circumstances by the provision of goods or services instead of by making the whole or part of any payment to which he would otherwise be entitled under this Order;
- (b) for any provision of this Order or regulations under it to be disregarded in connection with the provision of goods or services by virtue of sub-paragraph (a);
- (c) as to the manner of providing goods and services to be provided by virtue of that sub-paragraph.

(2) In relation to any goods or services provided in pursuance of this Article, references in this Order to the amount of supplementary benefit shall be taken to refer to the value of the goods or services.

*Supplementary provisions*

*Prevention of duplication of payments*

16.—(1) Where a prescribed payment which apart from this paragraph falls to be made from public funds in the United Kingdom or under the law of any other member State is not made on or before the date which is the prescribed date in relation to the payment, then—

- (a) in the case of a payment from such public funds, the authority responsible for making it may abate it by the relevant amount; and
- (b) in the case of any other payment, the Department shall be entitled to receive the relevant amount out of the payment;

and in this paragraph “the relevant amount”, in relation to a payment, means the amount which a benefit officer determines has been paid by way of supplementary benefit and would not have been paid if the payment had been made on the date aforesaid.

(1A) Where—

- (a) a payment by way of prescribed income is made after the date which is the prescribed date in relation to the payment; and
- (b) a benefit officer determines that an amount which has been paid by way of supplementary benefit would not have been paid if the said payment had been made on the date aforesaid,

the Department shall be entitled to recover that amount from the person to whom it was paid.

(2) Where for any period—

- (a) a person (in this paragraph referred to as A) is entitled to any prescribed benefit in respect of another person (in this paragraph referred to as B); and
- (b) B's requirements have been taken into account in determining the amount of any supplementary benefit payable for that period to B or some other person (other than A); and
- (c) the amount of the supplementary benefit so payable has been determined on the basis that A has not made payments for the maintenance of B at a rate equal to or exceeding the amount of the prescribed benefit;

the amount of the prescribed benefit may, at the discretion of the Department, be abated by the amount by which the amounts paid under this Order exceed what a benefit officer determines they would have been had A, at the time the amount of the supplementary benefit was determined, been making payments for the maintenance of B at a rate equal to the amount of the prescribed benefit.

(3) Where, in determining the amount of any supplementary benefit, the requirements of any person have been taken into account for the whole or part of a period in respect of which there might be afforded or granted to him—

- (a) a rent allowance under Article 59 of the Rent (Northern Ireland) Order 1978;



(b) a rent rebate under Article 6 of the Housing Finance (Northern Ireland Order 1977;

(c) a rent rebate under Article 9 of the Housing (Northern Ireland) Order 1976;

and before the whole or part of the allowance or rebate has been afforded or granted the Department of Finance in the case of an allowance or rebate specified in sub-paragraph (a) or (c) or the Northern Ireland Housing Executive in the case of a rebate specified in sub-paragraph (b), is notified by a benefit officer of the amount by which the amounts paid under this Order exceed what the benefit officer has determined they would have been had the allowance or rebate been afforded or granted before the amount of the supplementary benefit was determined, the amount of the allowance or rebate to be afforded or granted shall be reduced by the amount so notified.

(4) Where a benefit officer makes—

(a) a determination in pursuance of the preceding provisions of this Article or in pursuance of Article 28(3) of the Rates (Northern Ireland) Order 1977 in respect of an amount of supplementary benefit; or

(b) a determination altering on review or refusing to review a determination in respect of such an amount which has been made for the purposes of this Article or the said Article 28(3) by a benefit officer or on appeal,

the relevant person may appeal to the Appeal Tribunal against the determination; and Article 20(3) shall apply to an appeal under this Article as it applies to an appeal under that Article.

(5) In paragraph (4) “the relevant person” means the person who is entitled, apart from paragraph (1), (2) or (3), or Article 28(3) of the Rates (Northern Ireland) Order 1977, to the prescribed payment or the prescribed benefit or the allowance or rebate in question or, as the case may be, to whom the amount mentioned in paragraph (1A) was paid.

#### *Payment of supplementary benefits*

17. Any sums payable under this Order by way of supplementary benefits shall be paid by the Department.

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#### *Administration of supplementary benefits*

19.—(1) Regulations may make provision for carrying into effect this Part and Schedule 1; and nothing in any other provision of this Order shall be construed as prejudicing the generality of this paragraph.

(2) Regulations may make provision—

(a) for requiring claims for supplementary benefit to be made in such manner and within such time as may be specified in the regulations;

(b) for enabling a person to be appointed to exercise, on behalf of a claimant who may be or become unable to act in relation to his claim, any power in relation to it which the claimant is entitled to exercise;

(c) for prescribing the evidence which is to be provided in support of claims for supplementary benefit;

(d) for requiring or enabling a benefit officer, in such circumstances as may be specified in the regulations, to review any determination with respect to supplementary benefit, whether the determination is made by a benefit officer or by the Appeal Tribunal or by a . . . Commissioner or Tribunal of Commissioners by virtue of rules under Article 20A;

(e) for extinguishing the right to payment of any sum by way of supplementary benefit if payment is not obtained within a prescribed period of not less than twelve months from the date on which the right is to be treated under the regulations as having arisen; . . .

(ee) for suspending the payment of supplementary benefit pending the determination of questions; . . .

- (f) as to the day on which entitlement to a supplementary pension or allowance is to begin or end or the amount of a supplementary pension or allowance is to change;
  - (g) as to the time and manner of paying supplementary benefit and the information and evidence to be furnished in connection with payments of it;
  - (h) for withholding payments of a supplementary pension or allowance in prescribed circumstances and for subsequently making withheld payments in prescribed circumstances;
  - (i) as to the circumstances and manner in which payments of supplementary benefit may be made to another person on behalf of the beneficiary for any purpose (which may be to discharge, in whole or in part, an obligation of the beneficiary or any other person);
  - (j) for the payment or distribution of supplementary benefit to or among persons claiming to be entitled to it on the death of any person and for dispensing with strict proof of their title; and
  - (k) for the payment of travelling expenses in connection with claims for supplementary benefit.
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### *Appeals*

20.—(1) A person claiming, or in receipt of, supplementary benefit may appeal to the Appeal Tribunal against any determination of a benefit officer (including a determination to refuse to review a determination) with respect to the claim or benefit, except that no appeal shall lie by virtue of this paragraph in a case falling within Article 14(2), 16(4) or 25(3).

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(3) On an appeal under this Article the Appeal Tribunal may—

(a) confirm the determination appealed against; or

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(c) substitute for any determination appealed against any determination which a benefit officer could have made.

(4) Subject to Article 20A, any determination of an Appeal Tribunal shall be final; but nothing in this Article shall make any finding of fact or other determination embodied in or necessary to a decision, or on which it is based, conclusive for the purpose of any further decision.

### *Appeals from Appeal Tribunal*

20A.—(1) The Department may by rules make provision for any party to proceedings before an Appeal Tribunal (whether under this or any other enactment) to appeal to a . . . Commissioner against a decision of the tribunal.

(2) Rules under this Article may, in particular, make provision—

(a) as to the cases and circumstances in which, and the conditions subject to which, appeals may be made, including provision either generally or in relation to specified classes of case for appeals—

(i) to be confined to points of law;

(ii) to be made only with leave;

(b) as to the manner in which, and the time within which, appeals are to be brought and (where appropriate) applications are to be made for leave to appeal;

(c) as to the procedure to be followed on appeals;

(d) as to the payment by the Department to persons attending proceedings before a Commissioner of travelling and other allowances (including compensation for loss of remunerative time).

(3) The power to make provision as to procedure under paragraph (2)(c) includes power to make provision as to the representation of one person in any proceedings by another person.

(4) Rules under this Article may provide for a Commissioner hearing an appeal—

- (a) to give any decision which might have been given by the tribunal;
- (b) to refer the case to another tribunal, with directions;
- (c) to dispose of the appeal in such other manner as may be specified;

and in any case where directions are given to a tribunal in accordance with rules under this Article the tribunal shall proceed accordingly.

(5) In this Article “. . . Commissioner” has the same meaning as in the Social Security (Northern Ireland) Act 1975. . . .

#### *Supplementary benefits to be inalienable*

21. Every assignment of, or charge on, any supplementary benefit, and every agreement to assign or charge any such benefit, shall be void; and, on the bankruptcy of a person entitled to any supplementary benefit, no rights in respect of the benefit shall pass to any trustee or other person acting on behalf of his creditors.

### PART III

#### LIABILITY TO MAINTAIN, RECOVERY OF EXPENDITURE AND OFFENCES

##### *Liability to maintain*

##### *Liability to maintain*

22.—(1) For the purposes of this Order—

- (a) a man shall be liable to maintain his wife and his children; and
- (b) a woman shall be liable to maintain her husband and her children; and
- (c) a person shall be liable to maintain another person throughout any period in respect of which the first-mentioned person has, on or after the date of the making of the Social Security (Northern Ireland) Order 1980 and either alone or jointly with a further person, given an undertaking in writing in pursuance of immigration rules within the meaning of the Immigration Act 1971 to be responsible for the maintenance and accommodation of the other person.

(2) In paragraph (1)—

- (a) the reference to a man's children includes a reference to children of whom he has been adjudged to be the putative father; and
- (b) the reference to a woman's children includes a reference to her illegitimate children.

(3) A document bearing a certificate which—

- (a) is signed by a person authorised in that behalf by the Secretary of State; and
- (b) states that the document apart from the certificate is, or is a copy of, such an undertaking as is mentioned in paragraph (1)(c),

shall be conclusive evidence for the purposes of this Order of the undertaking in question; and a certificate purporting to be signed as aforesaid shall be deemed to be so signed until the contrary is proved.

##### *Recovery of expenditure*

##### *Recovery of expenditure on supplementary benefits from persons liable for maintenance*

23.—(1) Where supplementary benefit is paid or claimed to meet requirements which are or include those of a person whom another person is, for the purposes of this Order, liable to maintain (in this Article referred to respectively as “the dependant” and “the liable person”) the Department may make a complaint under Part IX of the Magistrates' Courts Act (Northern Ireland) 1964 against the liable person for an order under this Article.

(2) Except in a case falling within Article 22(1)(c), no complaint under paragraph (1) shall be made where the dependant is an illegitimate child and the liable person is his father.

(3) On the hearing of a complaint under paragraph (1) the court shall have regard to all the circumstances and, in particular, to the resources of the liable person, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate, except that, in a case falling within Article 22(1)(c), that sum shall not include any amount which is not attributable to supplementary benefit (whether paid before or after the making of the order).

(4) In determining whether to order any payments to be made in respect of supplementary benefit for any period before the complaint was made, or the amount of any such payments, the court shall disregard any amount by which the liable person's resources exceed the resources which were his during that period.

(5) Any payments ordered to be made under this Article shall be made—

- (a) to the Department in so far as they are attributable to any supplementary benefit (whether paid before or after the making of the order);
- (b) to the person claiming supplementary benefit or (if different) the dependant; or
- (c) to such other person as appears to the court expedient in the interests of the dependant.

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(7) Any proceedings for an order under this Article shall be included among the proceedings which are domestic proceedings within the meaning of the Magistrates' Courts Act (Northern Ireland) 1964; and section 98 of that Act (definition of "domestic proceedings") shall have effect accordingly.

#### *Affiliation orders*

24.—(1) The provisions of this Article apply in any case in which supplementary benefit is paid to meet requirements which include those of an illegitimate child.

(2) If no affiliation order is in force the Department may, within three years from the time when any payment by way of supplementary benefit was made, make application upon complaint to a justice of the peace having jurisdiction in the petty sessions district in which the mother of the child resides for a summons to be issued under section 2 of the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924.

(3) In any proceedings on an application under paragraph (2) the court shall hear such evidence as the Department may produce, in addition to the evidence required to be heard by section 1(3) of the said Act of 1924, and shall in all respects, subject to the provisions of paragraph (4), proceed as on an application made by the mother under section 2 of that Act.

(4) An affiliation order—

- (a) made on an application made by the Department under paragraph (2); or
- (b) made on an application made by the Department in proceedings brought by the mother of the child under section 2 of the said Act of 1924;

may be made so as to provide that the payments, or a part of the payments, to be made under the order shall, instead of being made to the mother or a person having custody of the child, be made to the Department or to such other person as the court may direct.

(5) Any affiliation order, whether made before or after the commencement of this Order, may, on the application of the Department, be varied so as to provide for the making of payments, or part thereof, as mentioned in paragraph (4); and an application by the Department under this paragraph may be made—

- (a) notwithstanding that the mother has died and no person has been appointed to have the custody of the child; and
- (b) where the child is not in the care of the mother and she is not contributing to his maintenance, without making her a party to the proceedings.

(6) Any affiliation order which provides for the making of payments, or part thereof, as mentioned in paragraph (4) may, on the application of the mother of the child or any other person who has custody of the child either legally or by any arrangement approved by the court, be varied so as to provide that the payments shall be made to the mother or the person having the custody of the child.

(8) An affiliation order made or varied under this Article shall be an affiliation order within the meaning of the said Act of 1924, and accordingly the provisions of that Act shall, without prejudice to the foregoing provisions of this Article, apply to any such order so made or varied.

*Recovery in cases of misrepresentation or non-disclosure*

25.—(1) If, whether fraudulently or otherwise, any person misrepresents, or fails to disclose, any material fact, and in consequence of the misrepresentation or failure—

(a) the Department incurs any expenditure under this Order; or

(b) any sum recoverable under this Order by or on behalf of the Department is not recovered;

the Department shall be entitled to recover the amount thereof from that person.

(2) If, whether in connection with any legal proceedings or otherwise, any question arises whether any amount paid by way of supplementary benefit is recoverable by the Department under this Article, or as to the amount so recoverable, the question shall be determined by a benefit officer.

(3) A person from whom, in pursuance of a determination of a benefit officer under paragraph (2), an amount is recoverable under this Article may appeal to the Appeal Tribunal against the determination; and Article 20(3) shall apply to an appeal under this paragraph as it applies to an appeal under that Article.

(4) Where any amount paid by way of supplementary benefit is recoverable under this Article, it may, without prejudice to any other method of recovery, be recovered by deduction from prescribed benefits.

(5) Paragraphs (2) and (3) shall apply to any question as to whether any amount or what amount is recoverable by the Department under section 22 of the National Assistance Act (Northern Ireland) 1948 or section 26 of the Supplementary Benefits &c. Act (Northern Ireland) 1966 (which contain provisions corresponding to paragraph (1) and paragraph (4) shall apply to an amount recoverable under either of those sections—

(a) as if for any reference in those paragraphs to this Article there were substituted references to the said section 22 or 26, as the case may be; and

(b) as respects a question relating to recovery under the said section 22 and an amount recoverable under that section, as if the words "paid by way of supplementary benefit" in paragraphs (2) and (4) were omitted.

*Further provisions for recovery*

26.—(1) Where under Article 25 the Department becomes entitled to recover any amount from any person, all property then or thereafter beneficially owned (whether solely, jointly or severally) by that person, shall,—

(a) as from the date on which the Department first becomes so entitled; or

(b) in the case of property which did not become so owned until after that date, as from the date on which it first becomes so owned;

and in every case for so long as such property remains vested in that person or in any other person to whom it subsequently passes (whether on death or by transfer inter vivos) other than a purchaser, be deemed to be held upon trust for the payment to the Department of all such amounts; and, in the event of that person or any such other person to whom the property or any part thereof subsequently passes as aforesaid disposing of the same to a purchaser, the person making such disposition shall continue

to be liable for the payment to the Department of those amounts but, in the case of any such other person as aforesaid, to the extent to which such property was theretofore liable and not beyond the value thereof; and the proceeds of any such disposition shall until such payment has been duly made be held upon trust for the payment of all such amounts to the Department, and the rights of the Department as beneficiary of the trust to follow such proceeds shall have effect accordingly.

(2) In this Article—

“disposing” includes making any conveyance, transfer, lease, release, exchange, surrender, licence, grant or other assurance of or affecting, as well as any mortgage of, or charge created upon, any property whatsoever;

“purchaser” means a person who acquires the estate or interest disposed of in good faith and for valuable consideration in money or money’s worth without notice of any trust created by paragraph (1) or of any fraud, misrepresentation or non-disclosure giving rise to the creation of such a trust.

(3) In this Article—

- (a) references to property beneficially owned by a person include references to property over which that person is entitled to exercise a general power of appointment; and
- (b) references to property passing on death include references to property passing by survivorship as well as under a will or on an intestacy but do not include references to settled property passing on the death of a tenant for life unless the tenant for life was also both the settlor and the person from whom the Department is entitled to recover any amount under Article 25.

### *Offences*

#### *False statements*

27. If any person, for the purpose of obtaining supplementary benefit or any other payment under this Order for himself or another person or for any other purpose connected with this Order,—

- (a) makes any statement or representation which he knows to be false; or
- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £400, or to both.

#### *Impersonation of officers*

28. If any person, with intent to deceive, falsely represents himself to be a person authorised by the Department . . . to act in any capacity (whether under this Order or otherwise) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

#### *Illegal possession of documents*

29.—(1) If any person—

- (a) as a pledge or a security for a debt; or
- (b) with a view to obtaining payment from the person entitled to it of a debt due either to himself or to any other person;

receives, detains or has in his possession any document issued by or on behalf of the Department in connection with any benefit, pension or allowance (whether payable under this Order or otherwise), he shall be guilty of an offence.

(2) If any person has such a document in his possession without lawful authority or excuse (the proof whereof shall lie on him), he shall be guilty of an offence.

(3) A person guilty of an offence under this Article shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £400, or to both.

*Failure to notify*

30.—(1) If any person fails to comply with a provision of regulations under Article 13(2) requiring him to give notice of any matter to the Department, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

*Failure to maintain*

31.—(1) If any person persistently refuses or neglects to maintain himself or any person whom for the purposes of this Order he is liable to maintain, and in consequence of his refusal or neglect supplementary benefit is awarded to meet requirements which are, or include, his or those of such a person, he shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £400, or to both.

(2) For the purposes of this Article a person shall not be taken to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.

*Legal proceedings*

*Legal proceedings*

32.—(1) Any person authorised by the Department in that behalf may conduct any proceedings under this Order before a magistrates' court although not a barrister-at-law or solicitor.

(2) Without prejudice to any other method of recovery, any sum due under this Order to the Department, other than a sum due under an order under Article 23 or 24, shall be recoverable summarily as a civil debt.

(3) Notwithstanding anything in section 34(1)(a) of the Magistrates' Courts Act (Northern Ireland) 1964 (time limit for summary proceedings), proceedings for an offence under this Order may be begun at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Department to justify a prosecution for the offence, comes to the Department's knowledge, or within the period of twelve months from the commission of the offence, whichever period last expires.

(4) For the purposes of paragraph (3), a certificate purporting to be signed by the Head of the Department or a secretary or assistant secretary of the Department as to the date on which such evidence as is mentioned in that paragraph came to the Department's knowledge shall be conclusive evidence of that date.

(5) In any proceedings for an offence under this Order the wife or husband of the accused shall be competent to give evidence, whether for or against the accused, but shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or to him by the accused during the marriage; and accordingly section 4 of the Criminal Evidence Act (Northern Ireland) 1923 (which makes an accused's spouse a competent witness in relation to offences under the enactments specified in Schedule 1 to that Act) shall have effect with the inclusion of this Order among the enactments mentioned in that Schedule.

PART IV

ADMINISTRATION, GENERAL AND SUPPLEMENTAL

*Administration*

*Duties of the Department*

33.—(1) It shall be the duty of the Department to make arrangements with a view to ensuring that benefit officers and other officers of the Department concerned with the administration of this Order exercise their functions in such manner as shall best promote the welfare of persons affected by the exercise of those functions.

(2) It shall be the duty of the Department to appoint persons to perform the functions conferred by virtue of this Order on benefit officers.

#### *The Appeal Tribunal*

34. The Appeal Tribunal for the purposes of this Order shall be a tribunal constituted in accordance with Schedule 4 which, under that Schedule, has jurisdiction in the case in question.

#### *Inspectors*

35.—(1) Every appointment of an inspector under section 135 of the Social Security (Northern Ireland) Act 1975 shall be an appointment for the purposes of this Order as well as for the purposes of that Act.

(2) In consequence of paragraph (1) the Social Security (Northern Ireland) Act 1975 shall have effect as if—

- (a) in sections 135(2) to (4) and 136 of that Act references to that Act included references to this Order; and
- (b) in section 136(1)(b) of that Act the reference to benefit included a reference to supplementary benefit;

but the following provisions of the said sections 135 and 136 (which among other things relate to injuries and diseases and to contributions and premiums) shall not apply for the purposes of this Order, namely, in section 135, subsection (2)(b) and (d) and so much of subsection (2)(c) as relates to contributions and premiums and, in section 136, subsections (1)(a) and (2)(e).

#### *Re-establishment courses*

36.—(1) For the re-establishment of persons in need thereof through lack of regular occupation or of instruction or training, the Department may provide courses, to be known as re-establishment courses, at which (either in consequence of a direction under Article 14(1) or otherwise) such persons may be afforded the occupation, instruction or training requisite to fit them for entry into or return to regular employment.

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#### *Contributions to voluntary organisations providing courses*

37. The Department may make contributions to the funds of any voluntary organisation providing courses for purposes similar to the purposes of re-establishment courses of a kind mentioned in Article 36(1).

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### *General and supplemental*

#### *Reciprocal arrangements with Great Britain*

39.—(1) The Head of the Department shall be the appropriate Northern Irish authority for the purposes of section 31 of the Supplementary Benefits Act 1976 and may, with the consent of the Department of Finance, make reciprocal arrangements with the Secretary of State for co-ordinating the operation of the two schemes for the payment of supplementary benefits in respect of persons whose resources are insufficient to meet their requirements, being the schemes established respectively under this Order and under the Supplementary Benefits Act 1976.

(2) Any such arrangements may include provision for the modification or adaptation of the respective schemes in relation to, or in connection with, persons affected by the arrangements.

(3) Regulations may provide for such modifications of this Order as appear to the Department to be required for giving effect to the arrangements, or in consequence of the arrangements, and for any necessary financial adjustments.



(4) The power to make regulations conferred by paragraph (3) shall be exercisable in relation to any provision enacted after this Order which is directed to be construed as one with this Order; but this paragraph applies only so far as a contrary intention does not appear in that provision and is without prejudice to the generality of any such direction.

*Reciprocity with other countries*

40.—(1) For the purpose of giving effect to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to those of this Order, the Secretary of State may by order provide for modifying ..... this Order in its application to cases affected by the agreement.

(2) The modifications of this Order which may be made by virtue of paragraph (1) include provision—

- (a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made have a corresponding effect for the purposes of this Order (but not so as to confer a right to double benefit);
- (b) for determining, in cases where rights accrue both under this Order and under the law of that country, which of those rights is to be available to the person concerned;
- (c) for making any financial adjustments.

(3) In relation to the power to make orders which is conferred by this Article, and to orders made in the exercise of the power, section 155(3) and (7) and section 157(4) of the Social Security (Northern Ireland) Act 1975 (additional matters which may be dealt with by orders; application to future legislation) apply as they do for the purposes of that Act.

*Modification of Order for special cases*

40A. Regulations may provide for any provision of this Order except this Article to have effect with prescribed modifications—

- (a) in cases involving a marriage celebrated under a law which permits polygamy or a marriage during the subsistence of which a party to it is at any time married to more than one person;
- (b) in cases where the Department considers that without the modifications the provision in question would give rise to an anomaly or an injustice or would produce impractical consequences.

*Regulations and rules*

41.—(1) Regulations of the following kinds, namely—

- (a) regulations of which the effect is to increase an amount which is specified in regulations made in pursuance of Article 5 or which, by virtue of regulations made in pursuance of sub-paragraph (b) of Article 6(1), is specified in a provision mentioned in that sub-paragraph;
- (b) regulations made in pursuance of Article 40A(b) except regulations made for the purpose only of consolidating regulations which they revoke;
- (c) regulations made in pursuance of paragraph 1 or 2 of Schedule 1 except regulations made for the purpose only of consolidating regulations which they revoke,

shall take effect on such date as may be specified in the regulations but shall cease to have effect upon the expiration of a period of six months from the said date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly; and the power to make regulations falling within sub-paragraph (a) or (c) shall not be exercisable without the consent of the Department of Finance.

(2) Other regulations, and any rules, made under this Order shall be subject to negative resolution.

(3) Any power to make regulations under this Order—

- (a) where the power is expressed to be exercisable for alternative purposes, may be exercised in relation to the same case for all or any of those purposes;
- (b) is without prejudice to the power to make any other such regulations;
- (c) includes power to make thereby such incidental or supplementary provision as appears to the Department to be expedient for the purposes of the regulations.

(4) Without prejudice to the generality of any power conferred by this Order to make regulations, regulations may provide for a person to exercise a discretion in dealing with any matter.

Articles 4, 5, 6, 19 and 41.

#### SCHEDULE 1

##### PROVISIONS FOR DETERMINING RIGHT TO BENEFIT AND AMOUNT OF BENEFIT

###### *General*

1.—(1) The amount of any supplementary benefit to which a person is entitled shall, subject to the following provisions of this Schedule, be the amount by which his resources fall short of his requirements.

(2) For the purpose of ascertaining that amount—

- (a) a person's requirements shall be determined in accordance with paragraph 2; and
- (b) a person's resources shall be calculated in the prescribed manner;

and, without prejudice to the generality of head (b), regulations in pursuance of that paragraph may provide for a person to be treated as possessing resources which he does not possess and for disregarding resources which a person does possess.

(3) Regulations may provide that a person whose resources as ascertained in pursuance of sub-paragraph (2)(b) or a prescribed part of them exceed or exceeds a prescribed amount shall not be entitled to a supplementary pension or allowance.

###### *Requirements*

2.—(1) For the purposes of this Schedule requirements shall be of three categories, namely,—

- (a) normal requirements;
- (b) additional requirements; and
- (c) housing requirements;

and the items to which each category relates and, subject to sub-paragraph (3), the weekly amounts for those categories shall be such as may be prescribed.

(2) A person's requirements shall consist of normal requirements together with requirements, if any, of such of the other categories as are applicable in his case.

(3) In the case of a person specified in the first column of the following Table his normal requirements shall be taken to be the weekly amount specified in relation to him in the second column of that Table; and in that Table —

“householder” means a person who is not one of a married or unmarried couple but who satisfies prescribed conditions with respect to living accommodation; and

“relevant person” means a person whose requirements include those of another person by virtue of paragraph 3(1).

TABLE

<i>Person</i>	<i>Weekly amount</i>
<p>1. A relevant person who—</p> <p>(a) is such a person as is mentioned in Article 3(1)(a); or</p> <p>(b) is not such a person as is so mentioned but satisfies prescribed conditions.</p>	<p>The aggregate of the sums for the time being specified in Article 8(1)(a) of the Social Security Pensions (Northern Ireland) Order 1975 and column (3) of paragraph 6 of Part IV of Schedule 4 to the Social Security (Northern Ireland) Act 1975 (which specify the amounts of the basic component of a Category A retirement pension and the increase of the pension for an adult dependant).</p>
<p>2. A relevant person not falling within paragraph 1 of this table.</p>	<p>The aggregate of the sums for the time being specified in paragraph 1 of Part I of the said Schedule 4 and column (3) of paragraph 1(a) of the said Part IV (which specify the amounts of unemployment or sickness benefit and the increase of it for an adult dependant of a beneficiary under pensionable age).</p>
<p>3. A householder who—</p> <p>(a) has attained pensionable age; or</p> <p>(b) has not attained pensionable age but satisfies prescribed conditions.</p>	<p>The sum for the time being specified in the said Article 8(1)(a).</p>
<p>4. A householder not falling within paragraph 3 of this Table.</p>	<p>The sum for the time being specified in paragraph 1 of the said Part I.</p>
<p>(4) Regulations may provide that the preceding sub-paragraph shall have effect with prescribed modifications.</p>	
<p>(5) Notwithstanding anything in the preceding provisions of this paragraph, regulations may provide for a person to be treated as having no normal requirements in prescribed cases.</p>	

*Aggregation of requirements and resources*

- 3.—(1) Where two persons are a married or unmarried couple, their requirements and resources shall be aggregated and treated—
- (a) until the prescribed date, as those of the man; and
  - (b) on and after that date, as those of such one of them as satisfies prescribed conditions or, where both of them satisfy or neither of them satisfies those conditions, as those of such one of them as they may jointly nominate in accordance with regulations or, in default of such a nomination, as the Department may determine.
- (2) Where a person is responsible for, and is a member of the same household as, another person and they are not a married or unmarried couple, then—
- (a) if the other person is a child or is excluded from entitlement to supplementary benefit by Article 9(2); or
  - (b) if the circumstances are such as are prescribed,
- their requirements and resources shall be aggregated and treated as those of the first-mentioned person.
- (3) Regulations may provide that, in a case falling within sub-paragraph (2), sub-paragraph (1) shall apply in relation to the other person with prescribed modifications.

*Exclusion of small payments*

4. Where the amount of any supplementary benefit would be less than a prescribed amount, the benefit shall not be payable except in prescribed circumstances.

## CONSEQUENTIAL AND MINOR AMENDMENTS

*The Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924 (c. 27)*

1. In section 2(2), for "Supplementary Benefits Commission for Northern Ireland" substitute "Department of Health and Social Services".

*The Employment and Training Act (Northern Ireland) 1950 (c. 29)*

2. In section 3, omit subsection (6) (which provides for payments out of the Northern Ireland National Insurance Fund towards expenses incurred providing training courses for unemployed persons).

*The Friendly Societies Act (Northern Ireland) 1957 (c. 1)*

3. For section 9 substitute the following section—

' Provision as to information supplied for social security purposes.

9.—(1) Subject to any exceptions or conditions prescribed by regulations of the Department of Health and Social Services, that Department shall at the request of any person claiming benefit from a registered trade union or branch of a registered trade union provide the trade union or branch for the purposes of the claim with a copy or abstract of any doctor's statement relating to that person and supplied by him to that Department for purposes of the enactments relating to social security.

(2) Where the Department of Health and Social Services furnishes a registered trade union or branch of a registered trade union, in connection with a claim for benefit from the trade union or branch, with information relating to a claim or award under those enactments, the expenses incurred in connection therewith by that Department or any other government department shall be treated as expenses in carrying those enactments into effect.

(3) Regulations made under subsection (1) shall be subject to negative resolution."

*The Mental Health Act (Northern Ireland) 1961 (c. 15)*

4. In section 2(2)(d), for "the Authority" substitute "the Department".

*The Legal Aid and Advice Act (Northern Ireland) 1965 (c. 8)*

5. In section 4—

(a) subsection (5) (which provides, in relation to legal aid, for computing resources by reference to the rules set out in certain paragraphs of Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977) shall cease to have effect;

(b) in subsection (8) (which among other things provides for the disposable income and capital of a person and the maximum amount of his contribution to the legal aid fund to be determined by the Supplementary Benefits Commission) for the words from "determined" onwards substitute "determined in accordance with regulations".

6. In section 24A(1)—

(a) for "Supplementary Benefits Commission" substitute "Department of Health and Social Services to arrange for an officer of that Department";

(b) for "the Commission" substitute "that Department";

(c) after "comply with it and" insert "arrange for the officer to".

*The Health and Personal Social Services (Northern Ireland) Order 1972*  
(S.I. 1972/1265 (N.I. 14))

7. In Article 99, for paragraph (4), (which provides that in determining a person's ability to pay for certain accommodation the Department shall give effect to Part III of Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977) substitute—

“(4) Regulations may make provision for the determination of a person's ability to pay for accommodation.”.

*The Industrial Relations (Northern Ireland) Order 1976*  
(S.I. 1976/1043 (N.I. 16))

8. In Article 72—

(a) in paragraph (2)—

(i) in sub-paragraph (a), for “the Supplementary Benefits Commission for Northern Ireland” substitute “a benefit officer within the meaning of the Supplementary Benefits (Northern Ireland) Order 1977”;

(ii) in sub-paragraph (b), for “the Commission” substitute “such a benefit officer”, and for “Article 20(2) to (4) of that Order (appeals)” substitute “Article 20(3) and (4) of that Order and regulations under Article 4(1A) of that Order”;

(b) in paragraph (4), for sub-paragraph (b) (which provides that certain provisions of the Supplementary Benefits (Northern Ireland) Order 1977 relating to the recovery of benefit shall not apply to supplementary benefit recouped by virtue of that Article) substitute the following sub-paragraph—

“(b) no sum shall be recoverable under the Supplementary Benefits (Northern Ireland) Order 1977, and no abatement, payment or reduction shall be made under Article 16(1), (2) or (3) of that Order, by reference to the supplementary benefit recouped;”.

*The Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977*  
(S.I. 1977/610 (N.I. 11))

9. In Article 18(13), omit “the said” and after “Article 46(6)” insert “of the Pensions Order”.

*The Rates (Northern Ireland) Order 1977 (S.I. 1977/2157 (N.I. 28))*

10. In Article 28, for paragraph (3) substitute the following paragraph—

“(3) Subject to Article 16(4) and (5) of the Supplementary Benefits (Northern Ireland) Order 1977 (appeal against determination of benefit officer), where, in determining the amount of any benefit under that Order the requirements of any person have been taken into account for the whole or part of a year in respect of which rate rebate under this Article might be afforded to him, and, before the whole or part of it has been afforded, the Department is notified by a benefit officer (within the meaning of that Order) of the amount by which the amounts paid under that Order exceed what the benefit officer has determined they would have had the rebate been afforded before the amount of the benefit was determined, the amount of the rebate to be afforded shall be reduced by the amount so notified.”.

*The Pensioners' Payments and Social Security Act 1979 (c. 48)*

11. In section 2(7) (under which an unmarried couple are to be treated as spouses for the purposes of section 1 if among other things the man is entitled to a supplementary pension) for “the man” substitute “one of them”.

## REPEALS

## PART I

## IMMEDIATE REPEALS

Chapter or Number	Title	Extent of repeal
1950 c. 29 (N.I.).	The Employment and Training Act (Northern Ireland) 1950.	In section 3, subsection (6).
1971 c. 30 (N.I.).	The Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971.	In section 1, subsections (4) and (5). In section 11, subsections (5) and (6). In section 16(1), the definition of "the Supplementary Benefits Commission".
1973 c. 38.	The Social Security Act 1973.	In Schedule 27, in Part II, paragraph 103.
1974 c. 14.	The National Insurance Act 1974.	In Schedule 4, in Part I, paragraph 38.
1975 c. 15.	The Social Security (Northern Ireland) Act 1975.	Sections 131 and 149. In section 155(4), the words from "except" to "scheme". Schedule 16.
1975 c. 18.	The Social Security (Consequential Provisions) Act 1975.	In Schedule 2, in Part II, in paragraph 73, the words "3(6) and".
S.I. 1975/1503 (N.I. 15).	The Social Security Pensions (Northern Ireland) Order 1975.	In Article 71(1)— (a) in sub-paragraph (a), the words "or 11(3)"; and (b) sub-paragraph (c). In Schedule 5, paragraph 31.
S.I. 1975/1504 (N.I. 16).	The Child Benefit (Northern Ireland) Order 1975.	In Article 4(3), the words from "ending" to "that week".
S.I. 1977/610 (N.I. 11).	The Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977.	In Article 18— (a) paragraph 12; and (b) in paragraph 13, the words "the said".
S.I. 1977/2156 (N.I. 27).	The Supplementary Benefits (Northern Ireland) Order 1977.	In Schedule 6, in paragraph 15, sub-paragraphs (2) and (3), and in paragraph 16, sub-paragraphs (2) and (3).
S.I. 1979/396 (N.I. 5).	The Social Security (Northern Ireland) Order 1979.	In Schedule 3, paragraph 8(b)(ii).

**PART II**  
**DEFERRED REPEALS**

Chapter or Number	Title	Extent of repeal
1965 c. 8 (N.I.).	The Legal Aid and Advice Act (Northern Ireland) 1965.	In section 4, subsections (5) and (6).
1971 c. 8 (N.I.).	The Family Income Supplements Act (Northern Ireland) 1971.	In section 7(2), the words from “(or, if” to “the refusal)”. In section 10(2)(h), the words “National Insurance”. In section 16(1), the definitions of “single woman” and “the Supplementary Benefits Commission”.
1975 c. 15.	The Social Security (Northern Ireland) Act 1975.	In section 41, subsection (6). In section 44— (a) in subsection (3), paragraph (b); (b) subsections (5) and (6). In section 47, the words from the last “or” in subsection (1)(a) to the end of the section. In section 65, subsection (4). In section 66— (a) in subsection (1), paragraphs (b) and (c); and (b) subsection (8). In Part IV of Schedule 4, the words from “Where unemployment” onwards. In Schedule 17, the entry relating to the expression “Incapable of self-support” (including both paragraphs in the second column of the entry).
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part II, the words “The Supplementary Benefits Commission for Northern Ireland.”.
S.I. 1977/610 (N.I. 11).	The Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977.	In Article 7, paragraph (3).
S.I. 1977/2156 (N.I. 27).	The Supplementary Benefits (Northern Ireland) Order 1977.	In Article 2(2), the definitions of “blind”, “the Commission”, “school”, “supplementary pension” and “supplementary allowance”.

Chapter or Number	Title	Extent of repeal
		<p>In Article 4, the words from the second "and" in paragraph (2)(a) to the end of the Article.</p> <p>In Article 13, paragraphs (4) to (7).</p> <p>Article 18.</p> <p>In Article 19(2)—</p> <p>(a) in sub-paragraph (d), the words "National Insurance";</p> <p>(b) at the end of sub-paragraphs (e) and (ee), the word "and";</p> <p>(c) paragraphs (3) and (4).</p> <p>In Article 20—</p> <p>(a) paragraph (2);</p> <p>(b) in paragraph (3), sub-paragraph (b).</p> <p>In Article 20A—</p> <p>(a) in paragraph (1), the words "National Insurance";</p> <p>(b) in paragraph (5), the words "National Insurance" and the words from "and includes" onwards.</p> <p>In Article 23, paragraph (6).</p> <p>In Article 24, paragraph (7).</p> <p>In Article 28, the words "or the Commission".</p> <p>In Article 30, paragraph (2).</p> <p>In Article 36, paragraphs (2) and (3).</p> <p>Article 38.</p> <p>In Article 40(1), the words "or adapting".</p> <p>In Article 41(3), sub-paragraph (d).</p> <p>Schedules 2 and 3.</p> <p>In Schedule 5, paragraphs 3, 5, 6, 7(3) and 8.</p> <p>In Schedule 6, paragraphs 3, 11, 18(2) and in paragraph 22, the words from "and for" in sub-paragraph (a) to the end of sub-paragraph (b).</p> <p>In Schedule 3, paragraphs 23(a) and 27.</p> <p>In Article 7, paragraph (3).</p> <p>In Schedule 9, paragraph 21.</p>
S.I. 1979/396 (N.I. 5).	The Social Security (Northern Ireland) Order 1979.	
S.I. 1979/1572 (N.I. 11).	The Legal Aid, Advice and Assistance (Northern Ireland) Order 1979.	
1980 c. 9.	The Reserve Forces Act 1980.	



## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order amends the law relating to social security (including supplementary benefits and family income supplements).

Articles 3 to 5 make various amendments to the Social Security (Northern Ireland) Act 1975, the Social Security Pensions (Northern Ireland) Order 1975 and other legislation. Article 6 provides for contribution conditions for maternity grant to be replaced by prescribed conditions as to residence and presence in Northern Ireland, if a confinement occurs (or, in the case of an advance claim, if a confinement is expected to occur) on or after an appointed date.

Article 7 abolishes the Supplementary Benefits Commission for Northern Ireland and otherwise amends the Supplementary Benefits (Northern Ireland) Order 1977. The changes include a revised legal structure under which designated supplementary benefit officers will replace the Commission as the initial determining authority in relation to claims for benefit, and regulation-making powers replace provisions enabling matters to be dealt with on a discretionary basis. From an appointed day the Supplementary Benefits (Northern Ireland) Order 1977 will, with certain exceptions, have effect as set out in Part II of Schedule 2. Article 8 amends the Family Income Supplements Act (Northern Ireland) 1971 by providing for the equal treatment of male and female members of married or unmarried couples who claim the supplement and by making other provisions corresponding to those made by Article 7 in relation to supplementary benefits. Article 9 contains powers to make transitional provisions connected with or arising out of the coming into operation of Articles 7 and 8.

Article 10 repeals provisions of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 placing restrictions on the payment of supplementary benefit to meet an exceptional need and excluding the operation of provisions of the Family Income Supplements Act (Northern Ireland) 1971 and the Supplementary Benefits (Northern Ireland) Order 1977 relating to appeals. Article 11 provides that no appeal shall lie to a Commissioner from a unanimous decision of a local tribunal except with the leave of the chairman or a Commissioner. Article 12 provides for the proof of decisions of adjudicating authorities in legal proceedings by certified records of the decisions.

Articles 13 to 16 contain supplementary provisions relating to powers to make subordinate legislation, expenses, consequential and minor amendments, and repeals.