

1980 No. 349

SUPPLEMENTARY BENEFITS

The Supplementary Benefit (Transitional) Regulations
(Northern Ireland) 1980*Made* 10th October 1980*Coming into operation* 10th November 1980

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The Department of Health and Social Services, in exercise of the powers conferred on it by Article 9(1) of the Social Security (Northern Ireland) Order 1980(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Supplementary Benefit (Transitional) Regulations (Northern Ireland) 1980 and shall come into operation on 10th November 1980.

(2) In these regulations—

“the 1977 Order” means the Supplementary Benefits (Northern Ireland) Order 1977(b);

“the 1980 Order” means the Social Security (Northern Ireland) Order 1980;

“the 1977 Order as amended by the 1980 Order” means the 1977 Order as it will be amended after the coming into operation of Article 7(1), (2) and (3) of, and Schedule 2 to, the 1980 Order(c);

(a) S.I. 1980/870 (N.I. 8)

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

(c) Provisions of the 1977 Order, as amended by the 1980 Order, are set out in Part II of Schedule 2 to the 1980 Order

“benefit week” has the meaning assigned to it in regulations made pursuant to Article 4 of the 1977 Order and Article 19(2)(f) of the 1977 Order as amended by the 1980 Order (days on which entitlement to supplementary pension or allowance is to begin or end or the amount thereof is to change);

“book of serial orders” means a book containing a series of orders for the payment of sums on account of benefit;

“calendar week” means a period of seven days beginning with midnight between a Sunday and a Monday;

“claimant” means a claimant to supplementary benefit;

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

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

Determinations before 24th November 1980 in respect of periods beginning on or after that date

2.—(1) Where any question relating to a claimant’s entitlement to supplementary pension or allowance in respect of a period beginning on or after 24th November 1980 falls to be determined before that date, determination of that question shall be subject to the following paragraphs.

(2) Any such question which, if it had fallen to be determined on or after 24th November 1980, would fall to be determined by a benefit officer pursuant to the 1977 Order as amended by the 1980 Order, shall be determined by the Commission pursuant to that Order as so amended.

(3) Where before the coming into operation of these regulations a notice of determination or a book of serial orders has been issued which is or which contains any order in respect of a period beginning on or after 24th November 1980, for the purposes of any review or appeal the determination in respect of which that notice is given or order is made shall be deemed to have been made by the Commission pursuant to the 1977 Order as amended by the 1980 Order on the date on which these regulations come into force.

(4) Where by virtue of a determination by the Commission to which this regulation applies the amount of any supplementary pension or allowance to which a claimant would, but for this paragraph, be entitled, is less than 10 pence, that amount shall not be payable unless the claimant is also entitled to payment of any benefit under the Social Security (Northern Ireland) Acts 1975(d) which is paid weekly and, under arrangements made by the Department, supplementary pension or allowance is payable together with such a benefit.

(5) Article 20 of the 1977 Order (appeals) shall apply to a determination to which paragraph (2) or (3) applies as if the determination had been made under that Order.

(6) Where, by virtue of the preceding paragraph, a claimant has a right of appeal against a determination to an Appeal Tribunal, rule 5(2) of the Supplementary Benefit (Appeal Tribunal) Rules (Northern Ireland) 1971(e) (notice of appeal and time of hearing) shall be modified in his case so that—

(a) 21 days notice of appeal shall not be required provided that notice is given before 22nd December 1980;

(b) no hearing of such an appeal shall be held until on or after 24th November 1980.

Determinations on or after 24th November 1980 in respect of periods before that date

3.—(1) This regulation shall apply to any question relating to a claimant’s entitlement to supplementary benefit in respect of a period before 24th November

(d) See Article 1(2) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15))

(e) S.R. & O. (N.I.) 1971 No. 162 (p. 769)

1980, including any claim for benefit pending on that date, which falls to be determined on or after that date.

(2) Any such question which, if it had fallen to be determined before 24th November 1980, would have fallen to be determined by the Commission, shall be determined by a benefit officer as if it had fallen to be determined before that date.

(3) Article 20 of the 1977 Order as amended by the 1980 Order (appeals) shall apply to a determination to which paragraph (2) applies as if that determination had been made under that Order as so amended.

Reviews of and appeals against determinations by the Commission

4.—(1) This regulation applies to any determination by the Commission which is either—

(a) in respect of a period before 24th November 1980;

(b) in respect of a period beginning on or after that date.

(2) Where, pursuant to regulations made under Article 19(2)(d) of the 1977 Order as amended by the 1980 Order (review of determinations), a determination with respect to supplementary benefit falls to be reviewed, a benefit officer may review that determination notwithstanding that it was made by the Commission.

(3) Any appeal which, under Article 20 of the 1977 Order (appeals), could have been brought against such a determination to an Appeal Tribunal may be brought to that Tribunal and in any such proceedings a benefit officer shall be a party instead of the Commission.

(4) In any proceedings in respect of an appeal which, under the said Article 20, has been brought against such a determination to an Appeal Tribunal before 24th November 1980, but has not been heard before that date, a benefit officer shall, on or after that date, be a party instead of the Commission.

Requirement to register

5. Any condition imposed by the Commission under Article 7 of the 1977 Order (requirement to register for employment) shall be treated as a condition imposed under Article 7 of the 1977 Order as amended by the 1980 Order.

Payments to third parties

6. Any determination by the Commission under Article 19(3) of the 1977 Order (supplementary benefit to be issued to a person other than the claimant) shall be treated as a determination to which regulations made pursuant to Article 19(2)(i) of the 1977 Order as amended by the 1980 Order (payment of supplementary benefit to another person on behalf of the claimant) apply.

Directions to attend courses of instruction or training

7.—(1) Any direction which is given by an Appeal Tribunal before 24th November 1980 under Article 14(1) of the 1977 Order (modification of right to supplementary allowance in special cases) and which has not expired shall on or after that date be deemed to be a direction to which Article 14(4) of the 1977 Order as amended by the 1980 Order (disentitlement to supplementary allowance during failure to comply with a direction) applies.

(2) Where before 24th November 1980 any report has, under paragraph (1) of Article 14 of the 1977 Order, been made by the Commission to, but not disposed of by, the Appeal Tribunal, the provisions of the said Article shall apply in respect of that report on or after that date as they would have applied before that date, save that as if for the reference in that paragraph to the Commission there were substituted a reference to the benefit officer, and any direction made in respect of that report shall be deemed to be a direction to which Article 14(4) of the 1977 Order as amended by the 1980 Order applies.

(3) Article 14(2) of the 1977 Order (revocation on change of circumstances) shall apply to any direction to which paragraph (1) or (2) of this regulation applies as if for the reference in that Article to the Commission there were substituted a reference to the benefit officer.

Recovery of expenditure on supplementary benefit

8.—(1) Any proceedings for the recovery of a sum which could have been taken by the Commission under the 1977 Order may, on or after 24th November 1980, be taken by the Department.

(2) Where before 24th November 1980 any question has, under paragraph (2) of Article 25 of the 1977 Order (questions as to amount of supplementary benefit recoverable), been referred to but not decided by the Appeal Tribunal, the provisions of the said paragraph and of paragraph (3) of the said Article 25 (certificate of the decision of the Appeal Tribunal) shall apply to that question on or after that date as they would have applied before that date.

Proceedings to which the Commission is a party

9. In any proceedings pending on 24th November 1980 before a court or tribunal (other than an Appeal Tribunal) the Department shall be substituted as a party for the Commission.

Amounts payable where benefit reduced after 24th November 1980

10.—(1) Where a claimant is entitled to supplementary pension or allowance in the benefit week beginning in the calendar week beginning 17th November 1980 (“the first benefit week”) and in the benefit week beginning in the calendar week beginning 24th November 1980 (“the second benefit week”) his total benefit income is less than the total benefit income payable to or in respect of him in the first benefit week, there shall be payable to him a weekly additional amount of supplementary pension or allowance (“an addition”) calculated in accordance with paragraph (4) for the period mentioned in that paragraph.

(2) Where—

- (a) the last benefit week beginning before 24th November 1980 in respect of which a claimant is entitled to supplementary pension or allowance (“the first benefit week”) is separated from the next benefit week in respect of which he claims such pension or allowance, being a benefit week beginning on or after that date (“the second benefit week”) by a period of 13 weeks or less; and
- (b) in the second benefit week his total benefit income is less than the total benefit income payable to or in respect of him in the first benefit week,

he shall be entitled to an addition calculated in accordance with paragraph (4) for the period mentioned in that paragraph.

(3) If any reduction in the amount of total benefit income payable to the claimant in the second benefit week by comparison with the first benefit week is attributable to a change of circumstances, the application of this regulation shall be by reference to the amount of total benefit income which would have been payable in the first benefit week if that change of circumstances had fallen to be taken into account in that week.

(4) An addition shall be—

- (a) such sum as will maintain the claimant’s total benefit income at an amount equal to the amount of total benefit income payable to or in respect of him in the first benefit week; and
- (b) payable to him in respect of the second benefit week and any benefit week thereafter which falls within the same period of entitlement.

(5) Where in any benefit week following the second benefit week there is any increase in the claimant’s total benefit income which is attributable to a change of

circumstances, other than any increase attributable only to an increase of supplementary benefit in consequence of the withdrawal of a rebate or allowance, any addition payable to him shall be reduced by the amount of that increase.

- (6) This regulation shall not apply to a claimant who in the second benefit week—
- (a) is not entitled to supplementary pension or allowance by virtue of either—
- (i) regulation 7 of the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1980 (maximum capital resources for entitlement to supplementary benefit), or
 - (ii) Article 9(1) of the 1977 Order as amended by the 1980 Order (persons engaged in remunerative full-time work); or
- (b) is a person whose requirements fall to be disregarded to any extent by virtue of Article 12 of the 1977 Order as so amended (persons affected by trade disputes).

(7) In this regulation—

“period of entitlement” means a continuous period, beginning with the second benefit week, during which the claimant is entitled to supplementary pension or allowance, so however that if he ceases to be entitled to such pension or allowance and again becomes so entitled within 13 weeks of so ceasing, any subsequent period in respect of which he is so entitled shall be treated as a period of entitlement to which this definition applies;

“rebate or allowance” means a rate rebate or, as the case may be, a rebate or allowance mentioned in paragraph (3) of Article 16 of the 1977 Order as amended by the 1980 Order (reduction of rebate or allowance in respect of supplementary benefit paid);

“total benefit income” means the aggregate of whichever of the following is applicable—

- (a) supplementary benefit;
- (b) any benefit under the Social Security (Northern Ireland) Acts 1975, other than attendance allowance and mobility allowance;
- (c) any child benefit under Part I of the Child Benefit (Northern Ireland) Order 1975(f);
- (d) any family income supplement under the Family Income Supplements Act (Northern Ireland) 1971(g);
- (e) any war disablement pension as defined in the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1980.

Entitlement to long-term rate for normal requirements in certain cases

11.—(1) This regulation shall apply for the purposes of—

- (a) paragraphs 1(b) and 3(b) of the Table for normal requirements of relevant persons and householders in paragraph 2(3) of Schedule 1 to the 1977 Order as amended by the 1980 Order (conditions for long-term rate of relevant persons and householders not of pensionable age);
- (b) regulation 7(5) of and paragraphs 1 and 2 of Schedule 1 to the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980 (long-term rate for certain persons other than partners and householders);
- (c) regulation 9(3) and (8) of the said regulations (long-term rate for boarders).

(2) A claimant who does not satisfy the conditions for the appropriate long-term rate mentioned in paragraph (1) shall be treated as having satisfied them where he is either—

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

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

- (a) a person to whom paragraph 6(1)(b)(ii) of Schedule 1 to the 1977 Order (persons in receipt of supplementary allowance for a continuous period of two years or more) applies; or
- (b) a person whose supplementary allowance has been increased, by virtue of paragraph 4(1)(a) of the said Schedule 1, so that it might equal the amount it would have been had the said paragraph 6(1)(b)(ii) applied to him,

in respect of—

- (c) the benefit week beginning in the calendar week beginning 17th November 1980; or
- (d) any benefit week beginning before 24th November 1980 which is separated by a period of 13 weeks or less from the next benefit week in which he is entitled to supplementary allowance, being a benefit week beginning on or after that date.

(3) In respect of a claimant to whom paragraph (2) does not apply but who is entitled to supplementary allowance in either the benefit week mentioned in sub-paragraph (c) of that paragraph or the first benefit week mentioned in sub-paragraph (d) of that paragraph, any period which—

- (a) falls before 24th November 1980; and
- (b) would, immediately before that date, fall to be taken into account in determining entitlement to a long-term rate or award of increase mentioned in sub-paragraph (a) or (b) of that paragraph,

shall be taken into account to the same extent for the purposes of the conditions for the appropriate long-term rate mentioned in paragraph (1).

Mentally disordered persons who have been in-patients in hospital since before 17th November 1975

12. Where—

- (a) for a continuous period beginning before 17th November 1975 a person suffering from mental disorder has been receiving treatment as an in-patient in a hospital to whom section 92(1) of the Mental Health Act (Northern Ireland) 1961(h) (provision of pocketmoney for in-patients) applies;
- (b) that person is on 24th November 1980 over pensionable age, but is aged less than 80; and
- (c) the amount of that person's requirements would, if determined immediately before that date, have been nil by virtue of the exercise of paragraph 14 of Schedule 1 to the 1977 Order (persons in hospital),

for the purposes of Parts II to IV of the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980 the amount of his requirements shall be treated as nil.

Provision in relation to certain heating requirements

13.—(1) Where a claimant is entitled to supplementary pension or allowance in the benefit week beginning in the calendar week beginning 17th November 1980 and, in determining the amount of such pension or allowance, an addition of £3.75 is made for extra heating, then, when calculating his requirements in respect of the benefit week beginning in the calendar week beginning 24th November 1980 and any benefit week thereafter which falls within the same period of entitlement, there shall be included a weekly additional amount ("an addition") in accordance with paragraph (3).

(h) 1961 c. 15 (N.I.)

- (2) Where—
- (a) the last benefit week beginning before 24th November 1980 in respect of which a claimant is entitled to supplementary pension or allowance (“the first benefit week”) is separated from the next benefit week in respect of which he claims such pension or allowance, being a benefit week beginning on or after that date (“the second benefit week”) by a period of 13 weeks or less; and
- (b) in determining the amount of such pension or allowance in respect of the first benefit week, an addition of £3.75 is made for extra heating,
- then, when calculating his requirements in respect of the second benefit week and any benefit week thereafter which falls within the same period of entitlement, there shall be included an addition in accordance with paragraph (3).
- (3) An addition shall be such sum, if any, as will increase to £3.75 the weekly amount of any additional requirement applicable under regulation 12 of, and paragraph 1(3) of Schedule 3 to, the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980.
- (4) In this regulation “period of entitlement” has the same meaning as in regulation 10(7).

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 10th October 1980.

(L.S.)

T. S. Martin

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations make transitional provisions connected with or arising out of the amendments to the Supplementary Benefits (Northern Ireland) Order 1977 by the Social Security (Northern Ireland) Order 1980, operative from 24th November 1980 by virtue of the Social Security (1980 Order) (Commencement No. 1) Order 1980.

Regulation 2 makes provision for questions relating to entitlement to supplementary pension or allowance for periods beginning on or after 24th November 1980, but which are to be determined before that date, to be determined by the Supplementary Benefits Commission ("the Commission"), for the minimum benefit payable in respect of such determinations, and for appeals provisions to apply, subject to modifications, to such determinations. Regulation 3 provides for questions relating to supplementary benefit for periods before that date, but which are to be determined after that date, to be determined by a benefit officer, and enables a benefit officer to review any determination of the Commission. Under regulation 4 an appeal against a determination of the Commission may be brought after that date and a benefit officer is to be a party to any proceedings in an appeal against a determination of the Commission heard after that date. Regulations 5 to 7 contain provisions for any condition to register for employment or arrangement to pay benefit to a third party made by the Commission before 24th November 1980 or any direction to attend a course as a condition of entitlement to benefit given before that date to have effect after that date.

Regulation 8 provides that after that date proceedings for recovery of any sum which could have been taken before that date by the Commission may be taken by the Department, and regulation 9 for the substitution of the Department for the Commission in any proceedings pending on that date (other than before Appeal Tribunals). Regulation 10 provides for payment of an additional amount of supplementary pension or allowance where after 24th November 1980 a person becomes entitled to less benefit than he would have been had the amendments to the 1977 Order not come into operation. Regulation 11 relates to the long-term rate for normal requirements where the conditions for that rate could not be satisfied by persons in receipt of supplementary allowance before 24th November 1980. Regulation 12 provides that certain persons who have been in-patients in hospital since before 17th November 1975 and who are treated before 24th November 1980 as having nil requirements for the purposes of supplementary benefit shall continue after 24th November 1980 to be treated as having nil requirements. Regulation 13 provides for the continuation after 24th November 1980 of certain heating additions to persons in receipt of those additions prior to that date.