

1980 No. 423

**SUPPLEMENTARY BENEFITS****The Supplementary Benefit (Determination of Questions) Regulations  
(Northern Ireland) 1980***Made* . . . . . 19th November 1980*Coming into operation* . . . . . 24th November 1980**ARRANGEMENT OF REGULATIONS**

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 4(1) and (1A) and 19(1) and (2)(d), (ee) and (f) of the Supplementary Benefits (Northern Ireland) Order 1977(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 (Determination of Questions) Regulations (Northern Ireland) 1980 and shall come into operation on 24th November 1980.

(2) In these regulations—

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

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

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

“allowance” means a supplementary allowance under Article 3(1)(b) of the Order;

“claimant” means a claimant for supplementary benefit;

“Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(c);

“Commissioner” has the same meaning as in the Act;

“order book” means a book containing a series of orders for the payment of a pension or allowance;

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(a) S.I. 1977/2156 (N.I. 27): provisions of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by Article 7 of, and Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), are set out in Part II of that Schedule; Article 4(1) is further amended by Article 6(5) of the Social Security (No. 2) (Northern Ireland) Order 1980

(b) 1975 c. 15

(c) S.R. 1977 No. 351

“pension” means a supplementary pension under Article 3(1)(a) of the Order;

“Requirements Regulations” means the Supplementary Benefit (Requirements) Regulations (Northern Ireland) 1980(d);

“Resources Regulations” means the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1980(e).

(3) Except in so far as the context otherwise requires any reference in these regulations to a numbered Article is to the Article of the Order bearing that number.

(4) Any notice or other document required or authorised to be given or sent to any person under the provisions of these regulations shall be deemed to have been given or sent if it was sent by post to that person at his last known address.

#### *Determination of questions by benefit officers*

2.—(1) Any question relating to supplementary benefit which arises under the Order and is not to be determined by the Department shall be referred forthwith to a benefit officer for determination.

(2) Different aspects of the same question may be dealt with by different benefit officers.

(3) Any question which is referred under paragraph (1) shall be taken into consideration and, so far as practicable, and subject to regulation 5 (reference of questions) and to compliance by the claimant with regulations 3 and 7 of the Supplementary Benefit (Claims and Payments) Regulations (Northern Ireland) 1980(f) (information to be given in connection with claims and payments), shall be determined within 14 days.

#### *Notice of determinations and assessments by benefit officers*

3.—(1) Subject to paragraphs (2) and (3), the Department shall give or send to the claimant written notice of any determination made by a benefit officer on a claim for supplementary benefit or on review (including refusal to review) under regulation 4.

(2) Where, under arrangements made by the Department, a pension or allowance is payable together with a benefit under the Act(g), notice of the aggregate amount so payable shall be notice for the purpose of paragraph (1).

(3) Written notice shall not be required of any determination—

(a) awarding benefit which is implemented by a cash payment; or

(b) terminating entitlement to a pension or allowance provided it is reasonable in the circumstances not to give written notice (for example where the reason for the termination is known to the claimant).

(4) So far as may be practicable, and subject to paragraph (5), where a determination to which paragraph (1) or (2) applies relates to a pension or allowance the Department shall also give or send to the claimant a written notice of assessment showing the total amounts, as determined by the benefit officer, of the normal, additional and housing requirements respectively and of the income resources taken into account.

(5) Paragraph (4) shall not apply to any determination—

(a) under the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1980 or Part II of the Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations (Northern Ireland) 1980(h) (urgent trade dispute cases);

(d) S.R. 1980 No. 347

(e) S.R. 1980 No. 348

(f) S.R. 1980 No. 399

(g) See also Article 2(3) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15))

(h) S.R. 1980 No. 417

- (b) that a pension or allowance is not payable either by reason of regulation 7 of the Resources Regulations (maximum capital resources for entitlement to supplementary benefit) or for any reason other than that the claimant's resources are sufficient to meet his requirements; or
- (c) made on review under regulation 4, either under paragraph (5) of that regulation or where in other cases under that regulation (for example where housing requirements are increased to take account of a rent increase) the Department considers a written notice of assessment unnecessary.

#### *Review of determinations*

4.—(1) Subject to paragraphs (2) to (6) and to regulation 5(5) (review of decisions on referred questions), a determination relating to supplementary benefit, if made by a benefit officer, may be reviewed by a benefit officer if he is satisfied that it was based on a mistake as to the law, and, if made by any determining authority, may be reviewed by a benefit officer if—

- (a) he is satisfied and, in the case of a decision of a Commissioner, satisfied by fresh evidence, that the determination was made in ignorance of, or was based on a mistake as to, some material fact; or
- (b) there has been any relevant change of circumstances since the determination was made.

(2) A determination shall not be revised on review under paragraph (1) where the effect of the revision would be to increase the amount of the supplementary benefit payable in respect of any past period—

- (a) which falls more than 52 weeks before the date on which the review was requested or was (or, but for this paragraph, would have been) made; or
- (b) which is subsequent to the period mentioned in sub-paragraph (a) and has been followed by termination or interruption of entitlement to a pension or allowance and—

(i) the total amount of the increase would be £5 or less, or

(ii) the grounds for review are a material fact or relevant change of circumstances of which the claimant was aware but of which he previously failed to furnish information to the Department.

(3) Where a pension or allowance is being paid by an order book no review shall be made under paragraph (1)(b) during the currency of the book if the sole effect would be to reduce the weekly amount of the pension or allowance by less than 50 pence.

(4) A change mentioned in sub-paragraph (a) or (b) of regulation 16(2) of the Requirements Regulations (fall in interest rates and reduction of outstanding mortgage capital where amount applicable for mortgage interest) shall be deemed not to be a change of circumstances if the amount of the instalments payable to the mortgagee remains constant but, in such a case, where a determination is subsequently reviewed under paragraph (1)(b) above, that review shall also take account of any such change.

(5) A determination under the Order made by a determining authority may be reviewed by a benefit officer for the sole purpose of giving effect to any change in—

- (a) any amount specified in Schedule 1 or in the Requirements Regulations in connection with the determination of requirements;
- (b) the prescribed rate of any payment—

(i) under the Act, the Child Benefit (Northern Ireland) Order 1975(i) or the Family Income Supplements Act (Northern Ireland) 1971(j), or

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

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

- (ii) made by virtue of any scheme made under section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975(k), or
  - (iii) made by virtue of any regulations made under section 2 of the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975(l), or
  - (iv) of a war disablement pension or war widow's pension, as defined in regulation 2(1) of the Supplementary Benefit (Duplication and Overpayment) Regulations (Northern Ireland) 1980(m); or
  - (c) the rate determined for the purposes of Article 99(2) of the Health and Personal Social Services (Northern Ireland) Order 1972(n) (lower rate of payment in respect of certain accommodation for persons in need),
- but any such change shall be deemed not to be a change of circumstances for the purpose of paragraph (1).

(6) A determination relating to supplementary benefit made by a determining authority shall be reviewed by a benefit officer where this is necessary to give effect to—

- (a) regulation 8(4)(b)(i) or (ii) of the Requirements Regulations (subsequent determination of claim for unemployment benefit where normal requirements modified in cases of actual or notional disqualification);
- (b) a decision given on a question referred to an insurance officer under regulation 5; or
- (c) a change of circumstances to which regulation 10(5) of the Supplementary Benefit (Transitional) Regulations (Northern Ireland) 1980(o) (reduction of transitional additions on change of circumstances) applies, and paragraph (5) above shall not apply in any such case.

(7) In this regulation "determining authority" means, as the case may require, a benefit officer, an Appeal Tribunal or a Commissioner.

#### *Reference of questions*

5.—(1) This regulation shall apply to the following questions—

- (a) whether a person's requirements fall to be disregarded to any extent by virtue of Article 12 (persons affected by trade disputes);
- (b) whether regulation 8 of the Requirements Regulations (modification of normal requirements in certain cases of actual or notional unemployment benefit disqualification) applies to a person by virtue of paragraph (1)(c) of that regulation and, if so, the period of its application by virtue of paragraph (4)(c) of that regulation;
- (c) whether by virtue of regulation 7(1) of the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1980(p) a person is, subject to regulations 7(2) and 8 of those regulations, to be treated as available for employment and whether by virtue of regulation 8(1)(b) of those regulations he is not to be so treated;
- (d) whether regulation 11 of the Supplementary Benefit (Conditions of Entitlement) Regulations (Northern Ireland) 1980 (circumstances in which persons are to be treated as receiving relevant education) applies to a person as being a person in respect of whom child benefit would, if a claim were made for it, be payable under Part II of the Child Benefit (Northern Ireland)

(k) 1975 c. 16

(l) 1975 c. 17

(m) S.R. 1980 No. 396

(n) S.I. 1972/1265 (N.I. 14)

(o) S.R. 1980 No. 349

(p) S.R. 1980 No. 416

Order 1975 or would, but for failure to satisfy conditions as to residence and presence pursuant to Article 15(2) and (3) of that Order, be so payable; and

(e) whether a person is for the purposes of regulation 3(5)(b) of the Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1980(q) (circumstances in which a person is to be treated as being responsible for another person) attending a course which would, if he were aged less than 19, be relevant education.

(2) Where it appears—

(a) to a benefit officer that a question arises to which any of sub-paragraphs (b) to (e) of paragraph (1) applies;

(b) to an Appeal Tribunal that a question arises to which paragraph (1) applies, other than one which has been referred under sub-paragraph (a) of this paragraph,

that question shall forthwith be referred for decision to an insurance officer appointed in pursuance of section 97(1) of the Act.

(3) Nothing in paragraph (2) shall require the reference of a question which it appears to the benefit officer or, as the case may be, the Appeal Tribunal can be determined on an assumption as to which there is no dispute.

(4) Where a question is referred under paragraph (2), the benefit officer or Appeal Tribunal making the reference shall (subject to the provisions of regulation 4(6)(b) as to review) proceed to determine the supplementary benefit entitlement of the claimant on the assumption that the decision on the question referred will be adverse to him.

(5) Part III of the Act and Part III of the Social Security (Determination of Claims and Questions) Regulations (Northern Ireland) 1975(r) shall apply, as appropriate, in relation to the adjudication of questions referred under paragraph (2) as they apply in relation to the adjudication under the Act of claims and questions relating to unemployment benefit, except that section 119 of the Act (effect of adjudication on payment and recovery) shall not apply and that section 104 (review of decisions) shall apply with the modification that a question may be raised with a view to a review under that section only through a reference made by a benefit officer or an Appeal Tribunal under this regulation (such reference to constitute an application for the purpose of subsection (3) of that section).

(6) Where a question is referred for decision under paragraph (2) notice of any decision on referral shall be given to the benefit officer or Appeal Tribunal making the reference (as well as to any person to whom notice is to be given through the operation of paragraph (5)).

#### *Duration of awards of pensions and allowances*

6.—(1) Subject to paragraph (2), any award of a pension or allowance shall be for an indefinite period (but subject to the provisions of regulations 4 and 5 as to review of determinations).

(2) Paragraph (1) shall not apply—

(a) if the claimant is a person affected by a trade dispute (that is to say a person whose requirements fall to be disregarded to any extent by virtue of Article 12), where the award shall be for a fixed period of one week;

(b) if, in any other case, an award for an indefinite period would be inappropriate (for example where resources fluctuate or the end of entitlement is foreseeable), where the award shall be for a fixed period which is appropriate in the circumstances but which shall normally be a week or a multiple of a week.

(q) S.R. 1980 No. 330

(r) S.R. 1975 No. 100 (I, p. 597)

*Date of commencement, change and termination of entitlement to pensions and allowances*

7.—(1) Where apart from the provisions of this regulation—

- (a) the day of the week on which entitlement to a pension or allowance would begin is not the first day of a benefit week, entitlement shall not begin until the first day of the next benefit week;
- (b) the day of the week on which a change in the amount of a pension or allowance (made on review under regulation 4) would take effect is not the first day of a benefit week, the change shall take effect—
  - (i) where the review is made only under one or both of sub-paragraphs (a) and (c) of regulation 4(5) (changes in amounts specified in connection with requirements and in the rate determined for certain purposes of the Health and Personal Social Services (Northern Ireland) Order 1972) or where it results in a reduction or termination of entitlement which is not due solely to a change in the amount of a payment to which regulation 4(5)(b) (changes in prescribed rates for certain payments) applies, from the first day of the next benefit week if practicable and otherwise from the first day of the next following benefit week, and
  - (ii) in any other case, from the first day of the benefit week which begins in the calendar week, that is to say in the period of seven days beginning with the midnight between a Sunday and a Monday, in which the change would take effect unless it is otherwise determined in particular circumstances,

but this regulation shall not apply where the pension or allowance is awarded, under regulation 6(2)(b), for a fixed period which is not a week or a multiple of a week.

(2) For the purpose of paragraph (1), “benefit week” in relation to a person’s entitlement to a pension or allowance means the period of seven days beginning—

- (a) where he is receiving a social security benefit, and sub-paragraph (b) does not apply, with the day of the week on which that benefit is payable or if more than one such benefit is payable and on more than one day of the week—
  - (i) if the benefits include unemployment benefit, on the day of the week on which that benefit is payable,
  - (ii) otherwise, on any day of the week on which one of those benefits is payable;
- (b) where he is not receiving unemployment benefit (and whether or not he is receiving any other social security benefit) but is a person to whom Article 7 applies (right to allowance subject to condition of registration and availability for employment), with the day of the week on which if he had been entitled unemployment benefit would have been payable;
- (c) in any other case, on Monday,

or, where the award is for a fixed period of one week or there are special circumstances, on such day of the week other than that applicable under sub-paragraphs (a) to (c) as may be appropriate.

(3) References in paragraph (2) to a social security benefit are to any of the following benefits to which any of regulations 15, 16 and 19 of the Claims and Payments Regulations applies in relation to the time and manner of payment and which is being paid by order book or giro order to the person entitled to the pension or allowance—

- (a) unemployment benefit or widow’s benefit;
- (b) benefit which by virtue of section 39(4) of the Act corresponds to a widow’s pension or a widowed mother’s allowance or which is a retirement pension of any category, except where payment falls to be made, in accordance with

regulation 21 of the Claims and Payments Regulations (time of payment to those also in receipt of supplementary benefit), on the day on which the pension or allowance is paid;

- (c) any other benefit payment of which falls to be made under any of regulations 15, 16 and 19 of the Claims and Payments Regulations and which, under arrangements made by the Department, is to be paid jointly with a pension or allowance where they are paid on the same day of the week,

and references to the day of the week on which a social security benefit is payable are to the day of the week on which it is payable under the Claims and Payments Regulations, except that where the benefit is payable under regulation 15 of those regulations the reference is to—

- (d) in the case of unemployment benefit, the second day (excluding Sunday) after the day of the week on which the claimant is required to attend at an office or place appointed by the Department for the purpose of claiming unemployment benefit, but in any case where the claimant—

(i) is not required so to attend,

(ii) is required to attend on more than one day of the week, or

(iii) receives payment of the pension or allowance otherwise than by post, such day of the week as may be determined;

- (e) in any other case—

(i) where payment is made by order book, the day of the week which is the due date specified for payment in the orders, and

(ii) where payment is made by giro order, the day of the week on which the order would normally be posted.

#### *Suspension of payment*

8. Where it appears to the Department that a question has arisen in relation to a person's entitlement to supplementary benefit, it may direct that payment of that benefit shall be suspended, in whole or in part, pending determination of that question on review (under regulation 4 or 5) or on appeal.

#### *Revocations*

9. The Supplementary Benefit (General) Regulations (Northern Ireland) 1977(s), the Supplementary Benefit (General) (Amendment No. 2) Regulations (Northern Ireland) 1978(t) and the Supplementary Benefit (General) (Amendment) Regulations (Northern Ireland) 1979(u) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 19th November 1980.

(L.S.)

*T. S. Martin*

Assistant Secretary

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(s) S.R. 1977 No. 229 (II, p. 1223)  
(t) S.R. 1978 No. 317 (II, p. 1111)  
(u) S.R. 1979 No. 313 (II, p. 1431)

## EXPLANATORY NOTE

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

These regulations make provision for the determination of questions under the Supplementary Benefits (Northern Ireland) Order 1977 ("the 1977 Order") as amended by the Social Security (Northern Ireland) Order 1980 and the Social Security (No. 2) (Northern Ireland) Order 1980.

Regulation 1 relates to citation, commencement and interpretation. Regulation 2 provides for the determination by benefit officers of questions relating to supplementary benefit (within 14 days if practicable) and regulation 3 for notice of determinations made by benefit officers and for cases where particulars of the assessment are to be given. Regulation 4 provides for review of determinations by benefit officers (under the 1977 Order there is a right of appeal to an Appeal Tribunal from determinations of a benefit officer including determinations on review) and regulation 5 for the reference by a benefit officer or Appeal Tribunal of specified questions for determination by authorities under the Social Security (Northern Ireland) Act 1975. Regulation 6 relates to the duration of awards of pensions and allowances and regulation 7 to the date, to be determined by reference to the appropriate benefit week, on which entitlement to a pension or allowance is to begin, change or end. Regulation 8 provides for the suspension of payment of benefit pending review or appeal. Regulation 9 revokes the Supplementary Benefit (General) Regulations (Northern Ireland) 1977 as amended (the provisions in place of which are to be found in these regulations and in other sets of regulations made under the 1977 Order as amended by the Social Security (Northern Ireland) Order 1980).