

Changes to legislation: There are currently no known outstanding effects for the Social Security Act 1980, Cross Heading: Right and amount of supplementary benefit. (See end of Document for details)

SCHEDULES

SCHEDULE 2

AMENDMENTS OF ^{M1}SUPPLEMENTARY BENEFITS ACT 1976

Marginal Citations

M1 1976 c. 71

PART II

PROVISIONS OF THE ACT AS AMENDED

Modifications etc. (not altering text)

C1 The text of ss.3(4)(8)(9)(12), 4(1), 6(1)(3), 9(6), 16(3)–(6), 21(4), Sch. 2 para. 32, Sch. 2 Pt. II, Schs. 4, 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

“PART I

SUPPLEMENTARY BENEFIT

Right and amount of supplementary benefit

Right to supplementary benefit.

- 1 (1) Subject to the provisions of this Act, every person in Great Britain 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 section 3 of this Act.

paragraph (a) of this subsection shall have effect until the prescribed date as if the words from “is one” to “couple and” were omitted.

- (1A) Regulations may provide for a person’s entitlement under subsection (1) above to continue during prescribed periods of the person’s temporary absence from Great Britain.

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- (2) Where, under the provisions of this Act, the requirements and resources of a 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 Act do not include any medical, surgical, optical, aural or dental requirements; and regulations may provide that the requirements which by virtue of this subsection are not included in a person's requirements include or exclude prescribed requirements.

Determination of right to and amount of supplementary benefit.

- 2 (1) Subject to sections 15 and 15A of this Act (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 Act shall be determined by a benefit officer except so far as this Act 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 subsection,—
 - (a) for prescribed questions to be referred to bodies or persons exercising functions under the Social Security 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 Act; and
 - (c) for dealing, by postponement or otherwise, with cases in which questions are referred by virtue of paragraph (a) of this subsection.
- (2) Entitlement to, and the amount of, any supplementary benefit shall be determined in accordance with the provisions of this Part of this Act and Schedule 1 to this Act.

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Supplementary benefit to meet exceptional need.

- 3 (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 section, 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 to this Act.

Provision for cases of urgent need.

- 4 (1) In urgent cases supplementary benefit shall be payable in accordance with this Act as modified by virtue of this section; and regulations may—
 - (a) prescribe the cases which are urgent cases for the purposes of this section;

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- (b) provide that in relation to such cases any of the provisions of sections 3, 5 to 8 and 10 of this Act and Schedule 1 to this Act shall have effect with prescribed modifications.
- (2) Any sums paid to a person by virtue of the preceding subsection, 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 subsection, shall be recoverable from him by the Secretary of State by making deductions from prescribed benefits or in any other manner.

Power to require registration for employment.

- 5 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 section; 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 certain employed persons and pupils.

- 6 (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 subsection 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 the preceding subsection as receiving relevant education; and in this section “relevant education” means full-time education by attendance at an establishment recognised by the Secretary of State as being, or as comparable to, a college or school.

Persons affected by trade disputes.

- 8 (1) Subject to subsection (2) below, 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 Act and are not to be disregarded by virtue of this subsection as it applies to the other person.
- (2) Subsection (1) above 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.

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

- 9 (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 section 9 of this Act (persons affected by trade disputes); and
 - (c) becomes engaged in remunerative full-time work again in consequence of the ending of the stoppage;
- section 6(1) of this Act shall not apply in his case until the expiration of the period of fifteen days from the beginning of the engagement mentioned in paragraph (c) above; but subsection (2) below 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 fifteen days specified in subsection (1) above by virtue of that subsection shall be recoverable from him or another person in accordance with regulations.
- (3) Regulations made by virtue of section 6(1) of this Act providing for a person not to be treated as engaged in remunerative full-time work shall not apply to a person to whom subsection (1) applies as regards the engagement mentioned in paragraph (c) of that subsection.

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Modification of the right to supplementary allowance in certain cases.

- 10 (1) Where—
- (a) a person is registered for employment in pursuance of section 5 of this Act and is not receiving unemployment benefit under the Social Security 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 Act 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 Secretary of State and is specified in the direction.
- (2) A person to whom such a direction is given may, in accordance with rules made by the Secretary of State, appeal against the direction to the Appeal Tribunal; and on an appeal in pursuance of this subsection the tribunal shall either confirm or cancel the direction.
- (3) A direction under subsection (1) of this section 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 the preceding subsection; 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 subsection (1) of this section is in force shall not be entitled to a supplementary allowance while he fails to comply with the direction.

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- (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.

- 11 (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 Act;
 - (b) for any provision of this Act or regulations under it to be disregarded in connection with the provision of goods or services by virtue of the preceding paragraph;
 - (c) as to the manner of providing goods or services to be provided by virtue of that paragraph.
- (2) In relation to any goods or services provided in pursuance of this section, references in this Act 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.

- 12 (1) Where a prescribed payment which apart from this subsection 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 Secretary of State shall be entitled to receive the relevant amount out of the payment;
- and in this subsection “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 Secretary of State 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 subsection referred to as A) is entitled to any prescribed benefit in respect of another person (in this subsection 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;

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the amount of the prescribed benefit may, at the discretion of the authority administering it, be abated by the amount by which the amounts paid under this Act 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 rate rebate under a scheme under section 11 or 12 of the ^{M1}Local Government Act 1974 or, in Scotland, the standard scheme prescribed under section 112 of the ^{M2}Local Government (Scotland) Act 1973 (including that scheme as varied under section 114 of that Act); or
- (b) a rebate or allowance under Part II of the ^{M3}Housing Finance Act 1972 or, in Scotland, Part II of the ^{M4}Housing (Financial Provisions) (Scotland) Act 1972;

and before the whole or part of the rebate or allowance has been afforded or granted, the authority administering the rebate or allowance, as the case may be, are notified by a benefit officer of the amount by which the amounts paid under this Act exceed what the officer has determined they would have been had the rebate or allowance been afforded or granted before the amount of the supplementary benefit was determined, the amount of the rebate or allowance 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 section 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 section by a benefit officer or on appeal,

the relevant person may appeal to the Appeal Tribunal against the determination; and subsection (3) of section 15 of this Act shall apply to an appeal under this subsection as it applies to an appeal under that section.

- (5) In the preceding subsection “the relevant person” means the person who is entitled, apart from subsection (1), (2) or (3) of this section, to the prescribed payment or the prescribed benefit or the rebate or allowance in question or, as the case may be, to whom the amount mentioned in subsection (1A) of this section was paid.

Payment of supplementary benefits.

- 13 Any sums payable under this Act by way of supplementary benefit shall be paid by the Secretary of State out of moneys provided by Parliament.

Administration of supplementary benefits.

- 14 (1) Regulations may make provision for carrying into effect this Part of this Act and Schedule 1 to this Act; and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.

- (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;

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- (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 section 15A of this Act;
- (e) for extinguishing the right to payment of any sum by way of supplementary benefit if payment is not obtained within the prescribed period of not less than twelve months from the date on which the right is to be treated under 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 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;
- (k) for the payment of travelling expenses in connection with claims for supplementary benefit.

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Appeals

- 15 (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 subsection in a case falling within section 10(2), 12(4) or 20(3) of this Act;

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- (3) On an appeal under this section 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.

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- (4) Subject to section 15A of this Act, any determination of an Appeal Tribunal shall be final; but nothing in this section 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.

- 15A(1) The Secretary of State may by rules make provision for any party to proceedings before an Appeal Tribunal (whether under this or any other Act) to appeal to a Commissioner against a decision of the tribunal.
- (2) Rules under this section may, in particular, make provision—
- (a) as to 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 Secretary of State 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 subsection (2)(c) above includes power to make provision as to the representation of one person in any proceedings by another person.
- (4) Rules under this section 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 section the tribunal shall proceed accordingly.
- (5) In this section “Commissioner” has the same meaning as in the ^{M5}Social Security Act 1975.

Supplementary benefits to be inalienable.

- 16 (1) 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.
- (2) In the application of the preceding subsection to Scotland—
- (a) the reference to assignment of supplementary benefit shall be read as a reference to its assignation, “assign” being construed accordingly; and
 - (b) the reference to the bankruptcy of a person entitled to supplementary benefit shall be read as a reference to the sequestration of his estate or the appointment on his estate of a judicial factor under section 14 of the Bankruptcy (Scotland) Act 1913 or section 15 of the Solicitors (Scotland) Act 1958.”

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