

## 1980 No. 1643

## SOCIAL SECURITY

**The Supplementary Benefit (Determination of Questions)  
Regulations 1980**

<i>Made - - - -</i>	30th October 1980
<i>Laid before Parliament</i>	3rd November 1980
<i>Coming into Operation</i>	24th November 1980

## ARRANGEMENT OF REGULATIONS

1. Citation, commencement and interpretation
2. Determination of questions by benefit officers
3. Notice of determinations and assessments by benefit officers
4. Review of determinations
5. Reference of questions
6. Duration of awards of pensions and allowances
7. Date of assessment, change and termination of entitlement to pensions and allowances
8. Suspension of payment
9. Revocations

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 2(1) and (1A) and 14(1) and (2)(d), (e) and (f) of the Supplementary Benefits Act 1976(a) and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals in so far as is required by section 10 of the Tribunals and Inquiries Act 1971(b), hereby makes the following regulations:—

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Supplementary Benefit (Determination of Questions) Regulations 1980 and shall come into operation on 24th November 1980.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Supplementary Benefits Act 1976;

“allowance” means a supplementary allowance under section 1(1)(b) of the Act;

“claimant” means a claimant for supplementary benefit;

---

(a) 1976 c. 71, the Act as amended (other than sections 31, 32, 35 and 36 and Schedules 4 and 6 to 8) is set out in Part II of Schedule 2 to the Social Security Act 1980 (C.30)  
(b) 1971 c. 62.

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

“pension” means a supplementary pension under section 1(1)(a) of the Act;

“Requirements Regulations” means the Supplementary Benefit (Requirements) Regulations 1980(a);

“Resources Regulations” means the Supplementary Benefit (Resources) Regulations 1980(b);

“the Social Security Act” means the Social Security Act 1975(c).

(3) Except in so far as the context otherwise requires, any reference in these regulations to—

(a) a numbered section is to the section of the Act bearing that number;

(b) a numbered regulation is to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation 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 Act and is not to be determined by the Secretary of State 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 4 and 8 of the Supplementary Benefit (Claims and Payments) Regulations 1980(d) (information to be given in connexion 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 Secretary of State 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 Secretary of State either throughout or in any part of Great Britain, a pension or allowance is payable together with a benefit under the Social Security Act(e), 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

(a) S.I. 1980/1299.

(b) S.I. 1980/1300.

(c) 1975 c. 14.

(d) S.I. 1980/1579.

(e) See also section 66(2) of the Social Security Pensions Act 1975 (c. 60).

(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 Secretary of State 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 1980(a) or Part II of the Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations 1980(b) (urgent cases);

(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 benefit) or for any other 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 Secretary of State 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 Secretary of State.

(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 Act 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 to the Act or in the Requirements Regulations in connexion with the determination of requirements;
- (b) the prescribed rate of any payment—
  - (i) under the Social Security Act, the Child Benefit Act 1975(a) or the Family Income Supplements Act 1970(b), or
  - (ii) made by virtue of any scheme made under the Industrial Injuries and Diseases (Old Cases) Act 1975(c), or
  - (iii) of a war disablement pension or war widow's pension, as defined in regulation 2(1) of the Supplementary Benefit (Duplication and Overpayment) Regulations 1980(d); or
- (c) the sums prescribed for the purposes of subsections (3) and (4) of section 22 of the National Assistance Act 1948(e) (which relates to persons in accommodation under Part III of that Act),

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 1980(f) (reduction of transitional additions on change of circumstances) applies, and paragraph (5) above shall not apply in any such case.

(6) 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 section 8 (persons affected by trade disputes);

(a) 1975 c. 61.  
(e) 1948 c. 29.

(b) 1970 c. 55.  
(f) S.I. 1980/984.

(c) 1975 c. 16.

(d) S.I. 1980/1580.

- (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 1980(a) 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 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 I of the Child Benefit Act 1975(b) or would, but for failure to satisfy conditions as to residence and presence pursuant to section 13(2) and (3) of that Act, be so payable; and
- (e) whether a person is for the purposes of regulation 3(5)(b) of the Supplementary Benefit (Aggregation) Regulations 1980(c) (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 Social Security 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 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 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 Social Security Act and Part III of the Social Security (Determination of Claims and Questions) Regulations 1975(d) shall apply, as appropriate, in relation to the adjudication of questions referred under paragraph (2) as they apply in relation to the adjudication under that Act of claims and questions relating to unemployment benefit, except that section 119 of that 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).

(a) S.I. 1980/1586.

(b) 1975 c. 61.

(c) S.I. 1980/982.

(d) S.I. 1975/558.

(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 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 section 8), 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.

*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 connexion with requirements and prescribed for certain purposes of the National Assistance Act 1948) 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 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 section 5 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 subparagraphs (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 Social Security (Claims and Payments) Regulations 1979<sup>(a)</sup> (“the 1979 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 Social Security 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 1979 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 1979 Regulations and which, under arrangements made by the Secretary of State either throughout or in any part of Great Britain, 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 1979 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 Secretary of State 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

---

(a) S.I. 1979/628.

- (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 Secretary of State that a question has arisen in relation to a person's entitlement to supplementary benefit, he 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 Benefits (General) Regulations 1977(a), the Supplementary Benefits (General) Amendment Regulations 1977(b) and the Supplementary Benefits (General) Amendment Regulations 1978(c) are hereby revoked.

*Patrick Jenkin,*  
Secretary of State for Social Services.

30th October 1980.

---

EXPLANATORY NOTE

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

These Regulations make provision for the determination of questions under the Supplementary Benefits Act 1976 ("the 1976 Act") as amended by the Social Security Act 1980.

Regulation 1 relates to citation, commencement and definitions. 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 1976 Act 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 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 Benefits (General) Regulations 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 1976 Act as amended by the Social Security Act 1980).

---

(a) S.I. 1977/1141.

(b) S.I. 1977/1226.

(c) S.I. 1978/1459.





SI 1980/1643  
ISBN 0-11-007643-5



780110 076430