
STATUTORY INSTRUMENTS

1980 No. 984

SOCIAL SECURITY

The Supplementary Benefit (Transitional) Regulations 1980

<i>Made</i>	- - - -	<i>14th July 1980</i>
<i>Laid before Parliament</i>		<i>17th July 1980</i>
<i>Coming into Operation</i>		<i>11th August 1980</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 8(1) of the Social Security Act 1980 and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals as required by section 10(1) of the Tribunals and Inquiries Act 1971, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Supplementary Benefit (Transitional) Regulations 1980 and shall come into operation on 11th August 1980.

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

“the 1976 Act” means the Supplementary Benefits Act 1976;

“the 1980 Act” means the Social Security Act 1980;

“the 1976 Act as amended by the 1980 Act” means the 1976 Act as it will be amended after the coming into force of section 6(1), (2) and (3) of and Schedule 2 to the 1980 Act(1);

“benefit week” has the meaning assigned to it in regulations made pursuant to section 2(2) of the 1976 Act and section 14(2)(f) of the 1976 Act as amended by the 1980 Act (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 the midnight between a Sunday and a Monday;

“claimant” means a claimant to supplementary benefit;

“Commission” means the Supplementary Benefits Commission.

(1) The 1976 Act as amended by the 1980 Act (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 1980 Act.

(3) Except in so far as the context otherwise requires any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

Determinations before 24th November 1980 in respect of periods after that day

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 day, 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 1976 Act as amended by the 1980 Act, shall be determined by the Commission pursuant to that Act 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 1976 Act as amended by the 1980 Act on the day 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 Acts 1975 which is paid weekly and, under arrangements made by the Secretary of State either throughout or in any part of Great Britain, supplementary pension or allowance is payable together with such a benefit.

(5) Section 15 of the 1976 Act (appeals) shall apply to a determination to which paragraph (2) or (3) applies as if the determination had been made under that Act.

(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 1971 (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 day

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

(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 day.

(3) Section 15 of the 1976 Act as amended by the 1980 Act (appeals) shall apply to a determination to which paragraph (2) applies as if that determination had been made under that Act as so amended.

Reviews of and appeals to 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 day.

(2) Where, pursuant to section 14(2)(d) of the 1976 Act as amended by the 1980 Act (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 section 15 of the 1976 Act (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 section 15, has been brought against such a determination to an Appeal Tribunal before 24th November 1980, but has not been heard before that day, a benefit officer shall, on or after that day, be a party instead of the Commission.

Requirement to register

5. Any condition imposed by the Commission under section 5 of the 1976 Act (requirement to register for employment) shall be treated as a condition imposed under section 5 of the 1976 Act as amended by the 1980 Act.

Payments to third parties

6. Any determination by the Commission under section 14(3) of the 1976 Act (supplementary benefit to be issued to a person other than the claimant) shall be treated as a determination to which regulations made pursuant to section 14(2)(i) of the 1976 Act as amended by the 1980 Act (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 section 10(1) of the 1976 Act (modification of right to supplementary allowance in certain cases) and which has not expired shall after that day be deemed to be a direction to which section 10(4) of the 1976 Act as amended by the 1980 Act (disentitlement to supplementary allowance during failure to comply with direction) applies.

(2) Where before 24th November 1980 any report has, under subsection (1) of section 10 of the 1976 Act, been made by the Commission to, but not disposed of by, the Appeal Tribunal, the provisions of the said section shall apply in respect of that report after that day as they would have applied before that day, save that as if for the reference in that subsection 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 section 10(4) of the 1976 Act as amended by the 1980 Act applies.

(3) Subsection (2) of section 10 of the 1976 Act (revocation on change of circumstances) shall apply to any direction to which paragraph (1) or (2) applies as if for the reference in that subsection 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 1976 Act on or after 24th November 1980 may be taken by the Secretary of State.

(2) Where before 24th November 1980 any question has, under subsection (2) of section 20 of the 1976 Act (questions as to amount of supplementary benefit recoverable), been referred to but not decided by the Appeal Tribunal, the provisions of the said subsection and of subsection (3) of the said section 20 (certificate of the decision of the Appeal Tribunal) shall apply to that question on or after that day as they would have applied before that day.

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 Secretary of State 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 day (“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 1980 (maximum capital resources for entitlement to supplementary benefit), or
 - (ii) section 6(1) of the 1976 Act as amended by the 1980 Act (persons engaged in remunerative full-time work); or
- (b) is a person whose requirements fall to be disregarded to any extent by virtue of section 8 of the 1976 Act 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 subsection (3) of section 12 of the 1976 Act as amended by the 1980 Act (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 Acts 1975, other than attendance and mobility allowance;
- (c) any child benefit under Part I of the Child Benefit Act 1975;
- (d) any family income supplement under the Family Income Supplements Act 1970;
- (e) any war disablement pension as defined in the Supplementary Benefit (Resources) Regulations 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 1976 Act as amended by the 1980 Act (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 Benefits (Requirements) Regulations 1980 (long-term rate for certain persons other than couples 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—

- (a) a person to whom paragraph 6(1)(b)(ii) of Schedule 1 to the 1976 Act (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 day.

(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 day, 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,

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

Persons who have been patients in psychiatric hospitals since before 17th November 1975

12. Where—

- (a) for a continuous period beginning before 17th November 1975 a person has been receiving treatment as an in-patient in a special hospital or any other hospital wholly or mainly used for the treatment of persons suffering from mental disorder to whom section 133(1) of the Mental Health Act 1959 or section 101 of the Mental Health (Scotland) Act 1960 (provision of pocket-money for in-patients in hospital) 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 day, have been nil by virtue of the exercise of paragraph 14 of Schedule 1 to the 1976 Act (persons in hospital),

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

14th July 1980

Patrick Jenkin
Secretary of State for Social Services

EXPLANATORY NOTE

These Regulations make transitional provisions connected with or arising out of the amendments to the Supplementary Benefits Act 1976 by the Social Security Act 1980 and brought into force on 24th November 1980 by the Social Security Act 1980 (Commencement No. 1) Order 1980 (S.I. 1980/729).

Regulation 2 makes provision for questions relating to entitlement to supplementary pension or allowance for periods after 24th November 1980, but which are to be determined before that day, 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 day, but which are to be determined after that day, 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 day and a benefit officer is to be a party to any proceedings in an appeal against a determination of the Commission heard after that day. 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 benefit given before that day to have effect after that day.

Regulation 8 provides that after that day proceedings for recovery of any sum which could have been taken before that day by the Commission may be taken by the Secretary of State, and regulation 9 for the substitution of the Secretary of State for the Commission in any proceedings pending on that day (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 1976 Act 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 psychiatric hospitals 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.