
STATUTORY INSTRUMENTS

1977 No. 2156 (N.I. 27)

NORTHERN IRELAND

The Supplementary Benefits (Northern Ireland) Order 1977

Laid before Parliament in draft

Made

21st December 1977

Coming into operation in accordance with Article 1 (2)

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At the Court at Buckingham Palace, the 21st day of December 1977

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Supplementary Benefits (Northern Ireland) Order 1977.

(2) This Order except this Article and Article 2 (1) shall come into operation on such day as the Head of the Department may by order appoint, but the repeal of any enactment specified in Part II of Schedule 7 which has not come into operation before the day so appointed shall not take effect until immediately after that enactment comes into operation.

(a) 1974 c. 28.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (a) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“blind” means so blind as to be unable to perform any work for which eyesight is essential;

“child” means a person under the age of 16;

“child benefit” means benefit under the Child Benefit (Northern Ireland) Order 1975 (b);

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

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

“pensionable age” means, in the case of a man, the age of 65, and, in the case of a woman, the age of 60;

“place of employment” has the same meaning as in section 19 of the Social Security (Northern Ireland) Act 1975 (c);

“school” has the same meaning as in the Education and Libraries (Northern Ireland) Order 1972 (d);

“supplementary benefit” means any benefit payable under this Order; and “supplementary pension” and “supplementary allowance” are the supplementary benefits specified in Article 3 (1) (a) and (b) respectively;

“trade dispute” has the same meaning as in section 19 of the Social Security (Northern Ireland) Act 1975;

“voluntary organisation” means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members thereof.

(3) For the purposes of section 42 (2) of the Northern Ireland Constitution Act 1973 (e) (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

PART II

SUPPLEMENTARY BENEFITS

Right to and amount of supplementary benefits

Right to supplementary benefits

3.—(1) Subject to the provisions of this Order, every person in Northern Ireland 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 has attained pensionable age; or

(b) a supplementary allowance if he has not attained pensionable age;

and to such benefit by way of a single payment to meet an exceptional need as may be determined under Article 5.

(a) 1954 c. 33 (N.I.). (b) S.I. 1975/1504 (N.I. 16). (c) 1975 c. 15.

(d) S.I. 1972/1263 (N.I. 12). (e) 1973 c. 36.

(2) Where, under the provisions of this Order, the requirements and resources of any 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 Order do not include any medical, surgical, optical, aural or dental requirements.

Determination of right to and amount of supplementary benefits

4.—(1) Subject to Article 20 (appeals), the question whether any person is entitled to supplementary benefit, and the amount of any such benefit, shall be determined by the Commission.

(2) Entitlement to, and the amount of, any supplementary benefit shall be determined in accordance with:—

(a) the provisions of this Part and Schedule 1; and

(b) any regulations made by the Department, with the consent of the Department of Finance, under this paragraph.

(3) Regulations so made may vary the provisions of Part II of Schedule 1 (calculation of requirements) but shall not reduce any amount specified in those provisions.

(4) Regulations so made may contain provision as to the day on which entitlement to any benefit is to begin or end or the amount of any benefit is to change.

Supplementary benefit to meet exceptional needs

5.—(1) Where it appears to the Commission reasonable in all the circumstances they may determine that supplementary benefit shall be paid to a person by way of a single payment to meet an exceptional need.

(2) In determining whether supplementary benefit shall be paid under this Article, and the amount of any such benefit, the Commission may have regard to any resources which would otherwise fall to be disregarded under Part III of Schedule 1 (calculation of resources).

Overriding discretion in cases of urgent need

6.—(1) Nothing in Articles 8 to 10 and 12 (persons not resident in United Kingdom for qualifying period, persons in full-time employment, persons completing secondary education and persons affected by trade disputes), nor any determination under Article 14 (3) or (4) (attendance for instruction or training, or maintenance in a centre), shall prevent the payment of supplementary benefit in an urgent case.

(2) In determining whether any supplementary benefit is payable by virtue of this Article, and the amount or nature of any such benefit, the Commission shall not be bound by anything in Schedule 1, or in any regulations made under this Order, which appears to them inappropriate in the circumstances of the case.

(3) Where, by virtue only of this Article, any sums are paid to a person engaged in remunerative full-time work, the Commission may determine that the whole or part of those sums shall be recoverable from him by the Department, if they are satisfied that the circumstances are such that the recovery would be equitable.

Power to require registration for employment

7. The Commission may determine that 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 by regulations made by the Department under this Article.

Exclusion from supplementary benefit of persons not resident in the United Kingdom for a qualifying period

8. A person shall not be entitled to supplementary benefit if he has not (except as may be otherwise prescribed by regulations made by the Department under this Article) been resident in the United Kingdom for a period of five years immediately preceding the date on which his claim for supplementary benefit was made.

Exclusion from supplementary benefit of persons in full-time employment

9.—(1) Except as provided in the following provisions of this Article and in Article 13 (1) (supplementary benefit paid after a return to full-time employment following a trade dispute), for any period during which a person is engaged in remunerative full-time work he shall not be entitled to supplementary benefit.

(2) The Department may, by regulations made under this paragraph, make provision for postponing the exclusion of persons becoming engaged in remunerative full-time work from a right to supplementary benefit under paragraph (1) for such period from the beginning of their engagement as may be specified in the regulations.

(3) There is no exclusion from a right to supplementary benefit under paragraph (1) where the earning power of a self-employed person is, by reason of a disability, substantially reduced in comparison with that of other persons similarly occupied.

In this paragraph “self-employed person” means a person engaged in any work otherwise than under a contract of service.

Exclusion from supplementary benefit of persons completing secondary education

10.—(1) A person attending a school, or receiving full-time instruction of a kind given in schools, shall not be entitled to supplementary benefit; but, where it appears to the Commission that there are exceptional circumstances justifying it, they may award supplementary benefit to a person who would be entitled to it but for this Article.

(2) The Department may, by regulations made under this Article, specify the circumstances in which a person is, or is not, to be treated for the purposes of this Article as attending a school or receiving full-time instruction of a kind given in schools.

(3) This Article does not prejudice the amount of any supplementary benefit to which a person who is providing for the requirements of any person attending a school, or receiving full-time instruction of a kind given in schools, may be entitled.

Other persons receiving full-time education

11.—(1) The Department may, by regulations made under this Article, make such modifications of this Order as the Department considers are appropriate with a view to securing that, for the purposes of this Order or of such provisions of it as are prescribed,—

- (a) the resources of a person under pensionable age who is attending a course of full-time education are treated as including any prescribed contribution notwithstanding that the contribution is not actually made; and
 - (b) any such contribution and any grant or award made to such a person by a government department or a prescribed authority in connection with the course is not disregarded.
- (2) Regulations under this Article may specify—
- (a) the courses which are courses of full-time education for the purposes of paragraph (1); and
 - (b) the circumstances in which a person is or is not to be treated for those purposes as attending such a course.
- (3) Regulations under this Article may be so made as to take effect on and after 15th August 1966.
- (4) Nothing in paragraph (1) or in regulations made in pursuance of that paragraph shall be construed as prejudicing any power conferred on the Commission otherwise than by virtue of that paragraph.
- (5) In paragraph (1) “prescribed” means prescribed by regulations made under this Article.

Persons affected by trade disputes

12.—(1) Subject to paragraph (2), 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 the requirement to provide for any other person.

(2) Paragraph (1) 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.

Payment and recovery of supplementary benefit after return to full-time employment following trade dispute

13.—(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 requirement to provide for any other person) fall to be disregarded for the purposes of supplementary benefit by virtue of Article 12 (persons affected by trade disputes); and
- (c) becomes engaged in remunerative full-time work again in consequence of the ending of the stoppage;

Article 9 (exclusion of persons in full-time employment) shall not apply in his case until the expiration of the period of 15 days from the beginning of the engagement mentioned in sub-paragraph (c); but paragraph (2) 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 15 days specified in paragraph (1) by virtue of that paragraph shall be recoverable from him in accordance with the provisions of Part II of Schedule 2.

(3) Regulations made under Article 9 (2) (postponement of exclusion from benefit in the case of persons becoming engaged in remunerative full-time work) shall not apply to a person to whom paragraph (1) applies as regards the engagement mentioned in sub-paragraph (c) of that paragraph.

(4) Where, on a claim for supplementary benefit made by a person engaged in remunerative full-time work, the Commission determine that the claimant is, by virtue of paragraph (1), entitled to supplementary benefit, and award benefit to him accordingly, they shall—

(a) determine, in accordance with paragraph (5), the claimant's protected earnings for the purposes of Part II of Schedule 2 (that is to say, the amount below which the earnings actually paid to him for any week in respect of that remunerative full-time work must not be reduced by any deduction made under that Part); and

(b) serve on him and on the Department a notice in writing—

(i) stating that they have made an award of supplementary benefit to the claimant as a person entitled thereto by virtue of paragraph (1) and that accordingly any sum paid to him on that award will be recoverable from him as provided in paragraph (2); and

(ii) specifying the amount of supplementary benefit awarded to the claimant and his protected earnings for the purposes of the said Part II as determined by them.

(5) For the purposes of Part II of Schedule 2 the protected earnings of a person shall be the sum determined by—

(a) taking the amount of his weekly requirements, calculated in accordance with paragraphs 1 and 3 and Part II of Schedule 1;

(b) adding £3; and

(c) subtracting from the result the aggregate weekly amount of any child benefit which falls to be taken into account in calculating his resources for the purposes of this Order.

(6) If it appears to the Department that in cases where two or more persons falling within paragraph (1) (a) and (b) also fall within paragraph (1) (c) in consequence of the ending of the same stoppage of work, anomalies in the operation of this Article would result from the arrangements for dealing with claims for supplementary benefit, the Department may, by regulations made under this paragraph, make such provision as it thinks appropriate for securing that this Article will operate uniformly in relation to both or all of those persons.

(7) No provision shall be made by regulations under paragraph (6) which would result in any supplementary benefit paid to a person being recoverable from him by virtue of paragraph (2) where that benefit is paid to him in circumstances in which it would not be so recoverable but for such regulations.

Modification of right to supplementary allowance in special cases

14.—(1) Where it appears to the Commission that a person claiming or in receipt of a supplementary allowance, who is not in receipt of unemployment benefit under Chapter I of Part II of the Social Security (Northern Ireland) Act 1975, refuses or neglects to maintain himself or any person whom, for the purposes of this Order, he is liable to maintain, the Commission may make a report to the Appeal Tribunal, and the tribunal, after giving him an opportunity of being heard, may direct that, during such period as may be specified in the direction, he shall be subject to the following provisions of this Article.

(2) Where a person in whose case a direction under paragraph (1) is in force represents to the Appeal Tribunal that there has been a change of circumstances and that, by reason of that change, the direction ought to be revoked, the tribunal, after giving the Commission an opportunity of being heard, may, if it thinks fit, revoke the direction.

(3) The Commission may determine that the right of a person to a supplementary allowance for the whole or part of the period specified in a direction in force in his case under paragraph (1) shall be subject to the condition that he attends such course of instruction or training as the Commission may specify, being a course approved by the Department for the purposes of this Article, and that he shall comply with the rules in force at the place where such instruction or training is given.

(4) The Commission may determine that a person in whose case a direction under paragraph (1) is in force shall, instead of being entitled to a supplementary allowance for the whole or part of the period specified in that direction, be entitled—

- (a) to be maintained either in a re-establishment centre provided under Article 36 or in accordance with arrangements under paragraph (5); and
- (b) to such payments (if any) for meeting his personal requirements, or the requirements of any dependant of his, as they think fit.

(5) The Commission may, on behalf of the Department, enter into arrangements with a government department, or with a voluntary organisation, for the maintenance of persons in whose case directions under paragraph (1) are in force in a centre provided by the department or organisation for purposes similar to the purposes for which a re-establishment centre may be provided by the Commission under Article 36.

Supplementary benefit in kind

15.—(1) Where it appears to the Commission that, by reason of exceptional circumstances, the requirements of any person can best be met by the provision of goods or services instead of the whole or part of any payment to which he would otherwise be entitled under this Order, they may determine that goods or services shall be so provided under arrangements made by them on behalf of the Department.

(2) In making a determination under this Article to meet sudden and urgent need the Commission may dispense with inquiry into resources or other circumstances and with compliance with any regulations made under this Order.

(3) In relation to any goods or services provided in pursuance of this Article, references in this Order 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

16.—(1) Where, in determining the amount of any supplementary benefit, the requirements of any person have been taken into account for a period for which he is entitled to payments in respect of—

- (a) benefit (other than a maternity grant or a death grant) under Part II of the Social Security (Northern Ireland) Act 1975 or Part III of the Social Security Pensions (Northern Ireland) Order 1975 (a);
- (b) child benefit;
- (c) allowances under the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975 (b); or
- (d) a family income supplement under the Family Income Supplements Act (Northern Ireland) 1971 (c);

those payments may, at the discretion of the Department, be abated by the amount by which the amounts paid under this Order exceed what the Commission determine they would have been had those payments been made before the amount of the supplementary benefit was determined.

(2) Where for any period—

- (a) a person (in this paragraph referred to as A) is entitled to, or to an increase in the amount of, any such benefit or allowance as is mentioned in paragraph (1) (a) to (c) (“the relevant social security benefit”) in respect of another person (in this paragraph 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, or of the increase in, the relevant social security benefit;

the amount of, or of the increase in, the relevant social security benefit may, at the discretion of the Department, be abated by the amount by which the amounts paid under this Order exceed what the Commission determine 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 relevant social security benefit, or of the increase in the relevant social security benefit, as the case may be.

(3) Until 6th April 1979, in paragraph (1) (a) the words “or Part III of the Social Security Pensions (Northern Ireland) Order 1975” shall be omitted.

Payment of supplementary benefits

17. Any sums payable under this Order by way of supplementary benefits shall be paid by the Department.

Retention by Department of supplementary benefit where accommodation is provided

18. Where a person entitled to supplementary benefit fails to pay any sum due from him in respect of the whole or any part of a liability arising under Article 99 of the Health and Personal Social Services (Northern Ireland) Order

(a) S.I. 1975/1503 (N.I. 15). (b) 1975 c. 17. (c) 1971 c. 8 (N.I.).

1972 (a) (charges in respect of certain accommodation under that Order for persons in need), the Commission may determine that so much of the benefit, if any, as exceeds the sum prescribed by regulations under paragraph 13 of Schedule 1 shall, instead of being issued to the person entitled to the benefit, be retained by the Department and applied in or towards the satisfaction of the liability.

Administration of supplementary benefits

19.—(1) The Department may, by regulations made under this Article, make provision for carrying into effect this Part and Schedule 1 and Part II of Schedule 2.

(2) Without prejudice to the generality of paragraph (1), the Department may, by regulations made under this Article, make provision—

(a) for requiring claims for supplementary benefit to be made in such manner as may be specified in the regulations;

(b) for requiring—

(i) claims for a supplementary pension or supplementary allowance to be made, subject to any exceptions allowed by or under the regulations, not later than the beginning of the first period for which it is payable; and

(ii) claims for any other supplementary benefit to be made within such time as may be specified in the regulations;

(c) for prescribing the evidence which is to be provided in support of claims for supplementary benefit;

(d) for requiring or enabling the Commission, 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 the Commission or by the Appeal Tribunal;

(e) for extinguishing the right to payment of any sum by way of supplementary benefit if payment is not obtained within such period as may be specified in the regulations, not being less than twelve months from the date on which the right is to be treated under the regulations as having arisen; and

(f) for the purposes specified in Part III of Schedule 2.

(3) Where it appears to the Commission that it is necessary for protecting the interests of a claimant or his dependants that the whole or part of any supplementary benefit should be issued to some other person, or where the claimant so requests, they may determine that it shall be issued to that other person.

(4) The Commission may, if they think fit, defray travelling expenses incurred in connection with claims for supplementary benefit.

Appeals

20.—(1) A person claiming, or in receipt of, supplementary benefit may appeal to the Appeal Tribunal against any determination of the Commission, or a refusal by the Commission to review a determination, with respect to any of the following matters—

(a) the right to, or amount of, any supplementary benefit;

(b) the issuing of supplementary benefit to a person other than the claimant;

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

- (c) the recovery of the whole or part of any sums paid by virtue of Article 6 (urgent needs payment);
- (d) the imposition of a condition of registration for employment under Article 7 or of attendance for instruction or training under Article 14 (3);
- (e) the provision of goods or services instead of the whole or part of any payment;
- (f) the amount of any excess mentioned in Article 16 (prevention of duplication of payments) or of the excess mentioned in Article 28 (3) of the Rates (Northern Ireland) Order 1977 (a) (prevention of duplication with rate rebate).

(2) Where, on an appeal under this Article, any question arises whether a person's own requirements fall to be disregarded by virtue of Article 12 (persons affected by trade disputes)—

- (a) that question shall be referred by the Appeal Tribunal for determination by a local tribunal established under Part III of the Social Security (Northern Ireland) Act 1975 in like manner as a reference under section 99 (2) (c) of that Act (reference by insurance officer to a local tribunal under that Act); and
- (b) the provisions of that Act with respect to such references shall have effect accordingly with respect to any question so referred.

(3) On an appeal under this Article the Appeal Tribunal may—

- (a) confirm the determination appealed against; or
- (b) if the appeal is against a refusal to review a determination, confirm the refusal; or
- (c) substitute for any determination appealed against any determination which the Commission could have made;

and, subject to paragraphs (4) to (6), any determination of the tribunal shall be conclusive for all purposes.

(4) Any party dissatisfied with the determination of the Appeal Tribunal upon any point of law may question that determination by applying to the Tribunal to state a case for the opinion of the Court of Appeal on the point of law involved and it shall be the duty of the Tribunal to state the case.

(5) Notwithstanding anything in any statutory provision, the decision of the Court of Appeal on an appeal by way of case stated under this Article shall be final.

(6) In paragraph (5) "statutory provision" has the meaning given by section 1 (f) of the Interpretation Act (Northern Ireland) 1954.

(7) Until the day appointed for the coming into operation of Article 18 (21) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (b) this Article shall have effect with the omission of paragraphs (4) to (6) and of the reference to those paragraphs in paragraph (3).

Supplementary benefits to be inalienable

21. 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.

(a) S.I. 1977/2157 (N. I. 28).

(b) S.I. 1977/610 (N.I. 11).

PART III

LIABILITY TO MAINTAIN, RECOVERY OF EXPENDITURE AND OFFENCES

Liability to maintain

Liability to maintain

22.—(1) For the purposes of this Order—

- (a) a man shall be liable to maintain his wife and his children; and
- (b) a woman shall be liable to maintain her husband and her children.

(2) In paragraph (1)—

- (a) the reference to a man's children includes a reference to children of whom he has been adjudged to be the putative father; and
- (b) the reference to a woman's children includes a reference to her illegitimate children.

Recovery of expenditure

Recovery of expenditure on supplementary benefits from persons liable for maintenance

23.—(1) Where supplementary benefit is paid or claimed to meet requirements which are or include those of a person whom another person is, for the purposes of this Order, liable to maintain (in this Article referred to respectively as "the dependant" and "the liable relative") the Commission may make a complaint under Part IX of the Magistrates' Courts Act (Northern Ireland) 1964 (a) against the liable relative for an order under this Article.

(2) No complaint under paragraph (1) shall be made where the dependant is an illegitimate child and the liable relative is his father.

(3) On the hearing of a complaint under paragraph (1) the court shall have regard to all the circumstances and, in particular, to the resources of the liable relative, and may order him to pay such sum, weekly or otherwise, as it may consider appropriate.

(4) In determining whether to order any payments to be made in respect of supplementary benefit for any period before the complaint was made, or the amount of any such payments, the court shall disregard any amount by which the liable relative's resources exceed the resources which were his during that period.

(5) Any payments ordered to be made under this Article shall be made—

- (a) to the Department in so far as they are attributable to any supplementary benefit (whether paid before or after the making of the order);
- (b) to the person claiming supplementary benefit or (if different) the dependant; or
- (c) to such other person as appears to the court expedient in the interests of the dependant.

(6) Where the order provides for the making of payments to the Department, the Commission shall be a party to any proceedings with respect to the enforcement, revocation, suspension, variation, revival or discharge of the order to which, but for this paragraph, the Department would be a party.

(a) 1964 c. 21 (N.I.).

(7) Any proceedings for an order under this Article shall be included among the proceedings which are domestic proceedings within the meaning of the Magistrates' Courts Act (Northern Ireland) 1964; and section 98 of that Act (definition of "domestic proceedings") shall have effect accordingly.

Affiliation orders

24.—(1) The provisions of this Article apply in any case in which supplementary benefit is paid to meet requirements which include those of an illegitimate child.

(2) If no affiliation order is in force the Commission may, within three years from the time when any payment by way of supplementary benefit was made, make application upon complaint to a justice of the peace having jurisdiction in the petty sessions district in which the mother of the child resides for a summons to be issued under section 2 of the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924 (a).

(3) In any proceedings on an application under paragraph (2) the court shall hear such evidence as the Commission may produce, in addition to the evidence required to be heard by section 1 (3) of the said Act of 1924, and shall in all respects, subject to the provisions of paragraph (4), proceed as on an application made by the mother under section 2 of that Act.

(4) An affiliation order—

(a) made on an application made by the Commission under paragraph (2);
or

(b) made on an application made by the Commission in proceedings brought by the mother of the child under section 2 of the said Act of 1924;

may be made so as to provide that the payments, or a part of the payments, to be made under the order shall, instead of being made to the mother or a person having custody of the child, be made to the Department or to such other person as the court may direct.

(5) Any affiliation order, whether made before or after the commencement of this Order, may, on the application of the Commission, be varied so as to provide for the making of payments, or part thereof, as mentioned in paragraph (4); and an application by the Commission under this paragraph may be made—

(a) notwithstanding that the mother has died and no person has been appointed to have the custody of the child; and

(b) where the child is not in the care of the mother and she is not contributing to his maintenance, without making her a party to the proceedings.

(6) Any affiliation order which provides for the making of payments, or part thereof, as mentioned in paragraph (4) may, on the application of the mother of the child or any other person who has custody of the child either legally or by any arrangement approved by the court, be varied so as to provide that the payments shall be made to the mother or the person having the custody of the child.

(7) Where an affiliation order provides for the making of payments, or part thereof, to the Department, the Commission shall be a party to any proceedings with respect to the enforcement, revocation, suspension, variation, revival or discharge of the order to which, but for this paragraph, the Department would be a party.

(a) 1924 c. 27 (N.I.).

(8) An affiliation order made or varied under this Article shall be an affiliation order within the meaning of the said Act of 1924, and accordingly the provisions of that Act shall, without prejudice to the foregoing provisions of this Article, apply to any such order so made or varied.

Recovery in cases of misrepresentation or non-disclosure

25.—(1) If, whether fraudulently or otherwise, any person misrepresents, or fails to disclose, any material fact, and in consequence of the misrepresentation or failure—

- (a) the Department incurs any expenditure under this Order; or
- (b) any sum recoverable under this Order by or on behalf of the Department is not recovered;

the Department shall be entitled to recover the amount thereof from that person.

(2) If, whether in connection with any legal proceedings or otherwise, any question arises whether any amount paid by way of supplementary benefit is recoverable by the Department under this Article, or as to the amount so recoverable, the question shall be referred to the Appeal Tribunal, and the decision of the tribunal shall be conclusive for all purposes.

(3) A certificate signed by the clerk of the Appeal Tribunal showing the decision of the tribunal upon a question referred to it under paragraph (2) shall be conclusive evidence of that decision in any legal proceedings; and any certificate purporting to be signed by the clerk of the Appeal Tribunal shall be deemed to be so signed unless the contrary is proved.

(4) Where any amount paid by way of supplementary benefit is recoverable under this Article, it may, without prejudice to any other method of recovery, be recovered by deduction from benefit under Part II of the Social Security (Northern Ireland) Act 1975 or Part III of the Social Security Pensions (Northern Ireland) Order 1975.

(5) Until 6th April 1979, in paragraph (4), the words “or Part III of the Social Security Pensions (Northern Ireland) Order 1975” shall be omitted.

Further provisions for recovery

26.—(1) Where under Article 25 the Department becomes entitled to recover any amount from any person, all property then or thereafter beneficially owned (whether solely, jointly or severally) by that person, shall,—

- (a) as from the date on which the Department first becomes so entitled; or
- (b) in the case of property which did not become so owned until after that date, as from the date on which it first becomes so owned;

and in every case for so long as such property remains vested in that person or in any other person to whom it subsequently passes (whether on death or by transfer inter vivos) other than a purchaser, be deemed to be held upon trust for the payment to the Department of all such amounts; and, in the event of that person or any such other person to whom the property or any part thereof subsequently passes as aforesaid disposing of the same to a purchaser, the person making such disposition shall continue to be liable for the payment to the Department of those amounts but, in the case of any such other person as aforesaid, to the extent to which such property was theretofore liable and not beyond the value thereof; and the proceeds of any such disposition shall until such payment has been duly made be held upon trust for the payment of all such amounts to the Department, and the rights of the Department as beneficiary of the trust to follow such proceeds shall have effect accordingly.

(2) In this Article—

“disposing” includes making any conveyance, transfer, lease, release, exchange, surrender, licence, grant or other assurance of or affecting, as well as any mortgage of, or charge created upon, any property whatsoever;

“purchaser” means a person who acquires the estate or interest disposed of in good faith and for valuable consideration in money or money’s worth without notice of any trust created by paragraph (1) or of any fraud, misrepresentation or non-disclosure giving rise to the creation of such a trust.

(3) In this Article—

(a) references to property beneficially owned by a person include references to property over which that person is entitled to exercise a general power of appointment; and

(b) references to property passing on death include references to property passing by survivorship as well as under a will or on an intestacy but do not include references to settled property passing on the death of a tenant for life unless the tenant for life was also both the settlor and the person from whom the Department is entitled to recover any amount under Article 25.

Offences

False statements

27. If any person, for the purpose of obtaining supplementary benefit or any other payment under this Order for himself or another person or for any other purpose connected with this Order,—

(a) makes any statement or representation which he knows to be false; or

(b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £400, or to both.

Impersonation of officers

28. If any person, with intent to deceive, falsely represents himself to be a person authorised by the Department or the Commission to act in any capacity (whether under this Order or otherwise) he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400.

Illegal possession of documents

29.—(1) If any person—

(a) as a pledge or a security for a debt; or

(b) with a view to obtaining payment from the person entitled to it of a debt due either to himself or to any other person;

receives, detains or has in his possession any document issued by or on behalf of the Department in connection with any benefit, pension or allowance (whether payable under this Order or otherwise), he shall be guilty of an offence.

(2) If any person has such a document in his possession without lawful authority or excuse (the proof whereof shall lie on him), he shall be guilty of an offence.

(3) A person guilty of an offence under this Article shall be liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £400, or to both.

Failure to notify cessation of employment or re-employment etc.

30.—(1) If any person fails to comply with a provision to which this Article applies requiring him to give notice of any matter to the Department, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(2) This Article applies to—

(a) any provision of regulations made, or having effect as if made, under Article 19 in pursuance of paragraph 2 of Part III of Schedule 2 (notice to be given where, after service of a deduction notice under that Schedule in relation to any person, his employment ceases or he is re-employed); and

(b) the provisions of paragraph 4 (5) of Part II of Schedule 2 (notice to be given where no deduction is made from an employee's earnings).

Failure to maintain

31.—(1) If any person persistently refuses or neglects to maintain himself or any person whom for the purposes of this Order he is liable to maintain, and in consequence of his refusal or neglect supplementary benefit is awarded to meet requirements which are, or include, his or those of such a person, he shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £400, or to both.

(2) For the purposes of this Article a person shall not be taken to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.

Legal proceedings

Legal proceedings

32.—(1) Any person authorised by the Department in that behalf may conduct any proceedings under this Order before a magistrates' court although not a barrister-at-law or solicitor.

(2) Without prejudice to any other method of recovery, any sum due under this Order to the Department, other than a sum due under an order under Article 23 or 24 shall be recoverable summarily as a civil debt.

(3) Notwithstanding anything in section 34 (a) of the Magistrates' Courts Act (Northern Ireland) 1964 (time limit for summary proceedings), proceedings for an offence under this Order may be begun at any time within the period of three months from the date on which evidence, sufficient in the opinion of the Department to justify a prosecution for the offence, comes to the Department's knowledge, or within the period of twelve months from the commission of the offence, whichever period last expires.

(4) For the purposes of paragraph (3), a certificate purporting to be signed by the Head of the Department or a secretary or assistant secretary of the Department as to the date on which such evidence as is mentioned in that paragraph came to the Department's knowledge shall be conclusive evidence of that date.

(5) In any proceedings for an offence under this Order the wife or husband of the accused shall be competent to give evidence, whether for or against the accused, but shall not be compellable either to give evidence or, in giving evidence, to disclose any communication made to her or to him by the accused during the marriage; and accordingly section 4 of the Criminal Evidence Act (Northern Ireland) 1923 (a) (which makes an accused's spouse a competent witness in relation to offences under the enactments specified in Schedule 1 to that Act) shall have effect with the inclusion of this Order among the enactments mentioned in that Schedule.

PART IV

ADMINISTRATION, GENERAL AND SUPPLEMENTAL

Administration

General duty, constitution etc. of Supplementary Benefits Commission for Northern Ireland

33.—(1) The Commission shall exercise the functions conferred on them by this Order in such manner as shall best promote the welfare of persons affected by the exercise of those functions.

(2) Schedule 3 shall have effect with respect to the constitution and proceedings of the Commission.

(3) The Department shall make arrangements for securing that such of its officers and servants as may from time to time be required for the exercise of the Commission's functions are available to act as officers and servants of the Commission, and may make arrangements with any other government department or with a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 for the discharge of those functions by officers and servants of the department or Board.

(4) Any expenses incurred by the Commission with the approval of the Department shall be deemed to be expenses incurred by the Department.

The Appeal Tribunal

34. The Appeal Tribunal for the purposes of this Order shall be a tribunal constituted in accordance with Schedule 4 which, under that Schedule, has jurisdiction in the case in question.

Inspectors

35.—(1) Every appointment of an inspector under section 135 of the Social Security (Northern Ireland) Act 1975 shall be an appointment for the purposes of this Order as well as for the purposes of that Act.

(2) In consequence of paragraph (1) the Social Security (Northern Ireland) Act 1975 shall have effect as if—

(a) in sections 135 (2) to (4) and 136 of that Act references to that Act included references to this Order; and

(b) in section 136 (1) (b) of that Act the reference to benefit included a reference to supplementary benefit;

but the following provisions of the said sections 135 and 136 (which among other things relate to injuries and diseases and to contributions and premiums)

(a) 1923 c. 9 (N.I.).

shall not apply for the purposes of this Order, namely, in section 135, subsection (2) (b) and (d) and so much of subsection (2) (c) as relates to contributions and premiums and, in section 136, subsections (1) (a) and (2) (e).

Re-establishment centres

36.—(1) For the re-establishment of persons in need thereof through lack of regular occupation or of instruction or training, the Commission may provide centres, to be known as re-establishment centres, where (whether in consequence of a determination of the Commission under Article 14 or otherwise) such persons may attend or may be maintained by the Commission, and in either case may be afforded by the Commission the occupation, instruction or training requisite to fit them for entry into or return to regular employment.

(2) The Department may, by regulations made under this paragraph, make provision for the management of, and the preservation of order in, re-establishment centres.

(3) Regulations made under paragraph (2) may—

(a) include provisions requiring persons accommodated or received in such centres, or specified classes of such persons, to do such work for assisting in the running of the centres as may be specified by or under the regulations; and

(b) provide that any person who contravenes any specified provision of the regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £10, or to imprisonment for a term not exceeding one month.

Contributions to centres maintained by voluntary organisations

37. The Commission may make contributions to the funds of any voluntary organisation maintaining centres for purposes similar to the purposes of re-establishment centres of a kind mentioned in Article 36 (1).

Exercise of Commission's functions

38. Any functions exercisable by the Commission under Articles 36 and 37 shall be exercisable by them on behalf of the Department and in accordance with any directions given by the Department.

General and supplemental

Reciprocal arrangements with Great Britain

39.—(1) The Head of the Department shall be the appropriate Northern Irish authority for the purposes of section 31 of the Supplementary Benefits Act 1976 (a) and may, with the consent of the Department of Finance, make reciprocal arrangements with the Secretary of State for co-ordinating the operation of the two schemes for the payment of supplementary benefits in respect of persons whose resources are insufficient to meet their requirements, being the schemes established respectively under this Order and under the Supplementary Benefits Act 1976.

(2) Any such arrangements may include provision for the modification or adaptation of the respective schemes in relation to, or in connection with, persons affected by the arrangements.

(a) 1976 c. 71.

(3) The Department may, by regulations made under this Article, provide for such modification or adaptation of the provisions of this Order as may appear to it to be required for giving effect to the arrangements, or in consequence of the arrangements, and for any necessary financial adjustments.

(4) The power under paragraph (3) to provide by regulations for the modification or adaptation of the provisions of this Order and for necessary financial adjustments shall be exercisable in relation to any provision enacted after this Order which is directed to be construed as one with this Order; but this paragraph applies only so far as a contrary intention does not appear in that provision and is without prejudice to the generality of any such direction.

Reciprocity with other countries

40.—(1) For the purpose of giving effect to any agreement with the government of a country outside the United Kingdom providing for reciprocity in matters relating to payments for purposes similar or comparable to those of this Order, the Secretary of State may by order provide for modifying or adapting this Order in its application to cases affected by the agreement.

(2) The modifications of this Order which may be made by virtue of paragraph (1) include provision—

- (a) for securing that acts, omissions and events having any effect for the purposes of the law of the country in respect of which the agreement is made have a corresponding effect for the purposes of this Order (but not so as to confer a right to double benefit);
- (b) for determining, in cases where rights accrue both under this Order and under the law of that country, which of those rights is to be available to the person concerned;
- (c) for making any financial adjustments.

(3) In relation to the power to make orders which is conferred by this Article, and to orders made in the exercise of the power, section 155 (3) and (7) and section 157 (4) of the Social Security (Northern Ireland) Act 1975 (additional matters which may be dealt with by orders; application to future legislation) apply as they do for the purposes of that Act.

Regulations and rules

41.—(1) Regulations made by virtue of Article 4 (3) (variation of Part II of Schedule 1) shall take effect on such date as may be specified in the regulations, but shall cease to have effect upon the expiration of a period of six months from the said date unless at some time before the expiration of that period the regulations have been approved by a resolution of the Assembly.

(2) Other regulations, and any rules, made under this Order shall be subject to negative resolution.

(3) The power to make regulations under Article 4 (4) or 11, or paragraph 22 (4) of Schedule 1—

- (a) where the power is expressed to be exercisable for alternative purposes, may be exercised in relation to the same case for all or any of those purposes;
- (b) is without prejudice to the power to make any other such regulations;
- (c) includes power to make thereby such incidental or supplementary provision as appears to the Department to be expedient for the purposes of the regulations;

(d) shall, if the Department of Finance so directs, be exercisable only in conjunction with it.

Transitional provisions, savings, amendments and repeals

42.—(1) Without prejudice to sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954 (effect of repeal or of substituting provisions) the transitional provisions and savings in Schedule 5 shall have effect.

(2) The enactments mentioned in Schedule 6 shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Order.

(3) Subject to the provisions of Schedule 5 and in accordance with Article 1 (2), the enactments specified in Schedule 7 are hereby repealed to the extent specified in the third column of that Schedule.

N. E. Leigh,
Clerk of the Privy Council.

SCHEDULES

SCHEDULE 1

Article 4.

PROVISIONS FOR DETERMINING RIGHT TO AND AMOUNT OF
SUPPLEMENTARY BENEFITS

PART I

GENERAL

*Amount of supplementary benefits and calculation of requirements
and resources*

1.—(1) Subject to the following provisions of this Part of this Schedule, the amount of any supplementary benefit to which a person is entitled shall be the amount by which his resources fall short of his requirements.

(2) For the purpose of ascertaining that amount—

- (a) the weekly requirements of any person shall be taken to be the aggregate of such of the amounts specified in Part II of this Schedule as are applicable to his case; and
- (b) the resources of any person shall be calculated in accordance with Part III of this Schedule.

Negligible amounts

2.—(1) Where the weekly amount of any supplementary benefit would be less than 10p the benefit shall not be payable.

(2) Sub-paragraph (1) does not apply where the person claiming, or in receipt of, supplementary benefit is entitled to such other payments as may be specified by regulations made by the Department under this paragraph and the circumstances are such as may be specified in those regulations.

Aggregation of requirements and resources

3.—(1) Where—

- (a) a husband and wife are members of the same household, their requirements and resources shall be aggregated and treated as the husband's;
- (b) two persons who are not married to each other are living together as husband and wife, their requirements and resources shall, unless there are exceptional circumstances, be aggregated and treated as the man's.

- (2) Where a person has to provide for the requirements of another person who is a member of the same household, not being a person falling within sub-paragraph (1)—
- (a) the requirements of that other person may, and if he has not attained the age of 16 shall, be aggregated with, and treated as, those of the first-mentioned person; and
 - (b) where their requirements are so aggregated, their resources shall be similarly aggregated.

Adjustment for exceptional circumstances

4.—(1) Where there are exceptional circumstances—

- (a) supplementary benefit may be awarded at an amount exceeding that, if any, calculated in accordance with paragraphs 1 to 3; and
- (b) a supplementary allowance may be reduced below the amount calculated in accordance with those paragraphs, or may be withheld;

as may be appropriate to take account of those circumstances, and for this purpose the circumstances of a case may be treated as exceptional if it falls within a class of case the circumstances of which are exceptional.

(2) Sub-paragraph (1) (b) does not apply to any award of supplementary benefit made by virtue of Article 13 (1) (award after a return to full-time employment following a trade dispute).

PART II

CALCULATION OF REQUIREMENTS

Application of paragraphs 7 to 11

5.—(1) Subject to sub-paragraph (2) the amounts specified in paragraphs 7 to 11 are not applicable to persons falling within any of paragraphs 12 to 16.

(2) Where one only of the persons falling within paragraph 3 (1) falls within paragraph 14 or 16 (person in hospital or in legal custody), sub-paragraph (1) shall not exclude the application of the amounts specified in paragraphs 7 to 11 to the other, but the amount applicable to that other person under paragraph 7 or 8 shall be that applicable under paragraph 7 (b) or 8 (b) (i), as the case may be.

Amounts preceded by A, B or C

6.—(1) Where, in paragraphs 7 and 8, amounts are preceded by A, B or C—

- (a) the amount preceded by A is applicable if neither of the others is applicable;
- (b) the amount preceded by B is applicable if either—
 - (i) the requirements are those of a person eligible for a supplementary pension and neither he, nor a person whose requirements are aggregated with, and treated as, his under paragraph 3, has attained the age of 80; or
 - (ii) the requirements are those of a person who has been in receipt of a supplementary allowance for a continuous period of not less than two years and his right to the allowance is not, and was not at any time during the last two years of that period, subject to the condition of registration for employment under Article 7;
- (c) the amount preceded by C is applicable if the requirements are those of a person eligible for a supplementary pension and either he, or a person whose requirements are aggregated with, and treated as, his under paragraph 3, has attained the age of 80.

(2) Where—

- (a) an amount applicable to the requirements of any person under paragraphs 7 and 8 is preceded by B or C; and
- (b) supplementary benefit is, or would, but for this paragraph, be, awarded in accordance with paragraph 4 at an increased amount so as to take account of exceptional expenses;

then, subject to sub-paragraph (3), the increase shall be made only to the extent that its weekly amount would, but for this sub-paragraph, exceed—

- (i) 50p where the amount applicable is preceded by B; and
- (ii) 75p where the amount applicable is preceded by C.

(3) Sub-paragraph (2) does not apply to an increase or part of an increase attributable to—

- (a) heating expenses; or
- (b) expenses taken into account, but not fully met, under paragraph 11 (1) (b); or
- (c) expenses of a person whose requirements are, under paragraph 3 (2), aggregated with, and treated as, those of the person entitled to the supplementary benefit.

Normal requirements

7. Requirements of persons, other than blind persons—

		£
(a) husband and wife or other persons falling within paragraph 3 (1)	A ..	23.55
	B ..	28.35
	C ..	28.60
(b) person living alone or householder not falling within sub-paragraph (a) who is directly responsible for household necessities and rent (if any)	A ..	14.50
	B ..	17.90
	C ..	18.15
(c) any other person aged—		
	(i) not less than 18 years	11.60
		14.35
		14.60
	(ii) less than 18 but not less than 16 years	8.90
	(iii) less than 16 but not less than 13 years	7.40
	(iv) less than 13 but not less than 11 years	6.10
(v) less than 11 but not less than 5 years	4.95	
(vi) less than 5 years	4.10	

Blind persons

8. Requirements of persons who are or include blind persons—

		£
(a) husband and wife or other persons falling within paragraph 3 (1)—		
	(i) if one of them is blind	24.80
		29.60
	29.85	
(ii) if both of them are blind	A ..	25.60
	B ..	30.40
	C ..	30.65
(b) any other blind person aged—		
	(i) not less than 18 years	15.75
		19.15
		19.40
	(ii) less than 18 but not less than 16 years	9.80
	(iii) less than 16 but not less than 13 years	7.40
	(iv) less than 13 but not less than 11 years	6.10
(v) less than 11 but not less than 5 years	4.95	
(vi) less than 5 years	4.10	

Persons disqualified for unemployment benefit

9.—(1) If a person's right to a supplementary allowance is subject to the condition of registration for employment under Article 7, then, in relation to any period during which—

- (a) he is disqualified for receiving unemployment benefit under the Social Security (Northern Ireland) Act 1975 by virtue of section 20 (1) of that Act (disqualification by reference to conduct resulting in unemployment or conducing to its continuance); or
- (b) he is not so disqualified, but the circumstances are as mentioned in sub-paragraph (2);

this Part of this Schedule shall have effect, as regards the determination of the amount of any supplementary allowance to which he is entitled, as if the amount specified in the entry in paragraph 7 or 8 which relates to his requirements (disregarding for this purpose the requirements of any other person which are, or may be, aggregated with, and treated as, his by virtue only of paragraph 3 (2)) were reduced by a sum equal to—

- (i) 40 per cent of the amount so specified; or
- (ii) if the amount so specified exceeds the amount preceded by A in paragraph 7 (b) of this Schedule, 40 per cent of the last-mentioned amount;

disregarding any amount by which that sum exceeds a multiple of 5p.

(2) The circumstances referred to in sub-paragraph (1) (b) are that the person concerned—

- (a) has not made a claim for unemployment benefit; or
- (b) has made such a claim, but the claim has not yet been determined; or
- (c) has had such a claim disallowed otherwise than by reason of his being disqualified as mentioned in sub-paragraph (1) (a);

but in the opinion of the Commission he would be so disqualified if he were to make such a claim, or if his claim had been determined, or if it had not been disallowed for a different reason.

Attendance requirements

10.—(1) The amounts applicable under paragraphs 5 to 9 shall be increased on account of the attendance requirements of a severely disabled person who is either entitled to an attendance allowance, or a child in respect of whose disablement the relevant person is entitled to an attendance allowance, by—

- (a) £14.00 where the entitlement is to the higher weekly rate of attendance allowance referred to in section 35 (3) of the Social Security (Northern Ireland) Act 1975; and
- (b) £9.30 where the entitlement is to the lower weekly rate of attendance allowance so referred to.

(2) In this paragraph—

“attendance allowance” means an attendance allowance under Chapter II of Part II of the Social Security (Northern Ireland) Act 1975;

“attendance requirements” means such requirements of a disabled person for attention or supervision from another person as entitle any person to attendance allowance;

“relevant person”, in relation to a child, means the person claiming or in receipt of supplementary benefit or a person whose requirements are, under paragraph 3 of this Schedule, aggregated with, and treated as, those of the person claiming, or in receipt of, supplementary benefit.

(3) For the purposes of this paragraph the provisions of regulations under Chapter VI of Part II of the Social Security (Northern Ireland) Act 1975 relating to overlapping benefits shall not be treated as affecting the rate of attendance allowance to which a person is entitled.

Rent

11.—(1) The amounts applicable under paragraphs 5 to 10 shall be increased—

(a) where the person claiming, or in receipt of, supplementary benefit, or a person whose requirements are aggregated with, and treated as, his under paragraph 3 (1), is a householder, by the amount of the net rent payable, reduced where appropriate under sub-paragraph (2) (adjustment for non-dependants sharing the accommodation), or such part of that amount as is reasonable in the circumstances;

(b) in any other case, by £1.45.

(2) Where another person, not being a person whose requirements are aggregated with, and treated as, the requirements of the householder under paragraph 3, resides, otherwise than as a sub-tenant, in the premises for which the rent is paid, then, unless the householder or a person whose requirements are aggregated with, and treated as, his under paragraph 3 (1) is blind, the amount mentioned in sub-paragraph (1) (a) may be reduced by an amount not exceeding such part of the net rent as is reasonably attributable to that other person.

(3) In sub-paragraphs (1) and (2) “net rent” means—

(a) the rent payable for one week; and

(b) so much of any outgoings borne by the householder as is attributable to one week, including rates, ground rent, a reasonable allowance towards any necessary expenditure on repairs or insurance, and such proportion as is for the time being attributable to interest of any sum payable in respect of a mortgage debt charged on the house in which the householder resides, or on any interest in the house;

less any proceeds of sub-letting any part of the premises in respect of which the rent is paid or the outgoings are incurred.

Trade disputes

12. Requirements of persons falling within paragraph 3, where the requirements of any one or more, but not both or all, of such persons are to be disregarded by virtue of Article 12 (persons affected by trade disputes).

The amount which, if the persons were not persons falling within paragraph 3, would be applicable under paragraph 7 (c) or 8 (b) to the person or persons whose requirements are not to be so disregarded, such amount being increased in accordance with paragraphs 10 and 11 in the case of the amounts mentioned in those paragraphs.

Persons in residential homes

13. Requirements of a person for whom accommodation which includes board and other services is provided under Articles 15 and 36 of the Health and Personal Social Services (Northern Ireland) Order 1972.

A sum of such amount as exceeds by so much as may be prescribed by regulations made by the Department such rate as is determined by the Department for the purposes of Article 99 (2) of that Order (lower rate of payment in respect of certain accommodation for persons in need).

Persons in hospital

14. Requirements of a person residing as a patient in any hospital.

Such amount, if any, as may be appropriate, having regard to all the circumstances.

Persons paying for board and lodging

15. Requirements of a person paying inclusive charge for board and lodging.

Such amount as may be appropriate, not being less than the amount which would be applicable under paragraphs 7 to 10.

Persons in legal custody

16. Requirements of a person in Nil (except for any amount applicable prison or otherwise detained in legal custody by virtue of paragraph 3).

PART III

CALCULATION OF RESOURCES

Disregard of capital value of dwelling

17. In taking into account the value to any person of an interest in the dwelling in which he resides, any sum which might be obtained by him by selling that interest, or borrowing money upon the security of that interest, shall be disregarded.

Resources wholly disregarded

18. There shall be wholly disregarded—

- (a) any maternity grant under section 21 of the Social Security (Northern Ireland) Act 1975;
- (b) any death grant under section 32 of that Act;
- (c) any sums payable to any person as holder of the Victoria Cross or of the George Cross.

19. If the value of the capital resources taken into account would not exceed £1,200 they shall be wholly disregarded, together with any income derived from them.

Calculation of income from capital resources

20. The capital resources taken into account, together with any income derived from them, shall be treated as equivalent to a weekly income of 25p for each complete £50 of the excess of the value of the capital resources over £1,200.

Net weekly earnings

21. For the purposes of this Schedule a person's net weekly earnings shall be calculated or estimated in such manner as the Department may, by regulations made under this paragraph, prescribe.

Earnings

22.—(1) Subject to sub-paragraphs (2) and (3), the weekly earnings of any person shall be taken to be his net weekly earnings reduced—

- (a) by £2, if he is the person claiming, or in receipt of, supplementary benefit and his right thereto is subject to the condition of registration for employment under Article 7, and head (b) does not apply; or
- (b) by £6, if he is the parent in a one-parent family, that is to say, a person who has to provide for the requirements of another person who is a member of the same household, being a person whose resources are aggregated with, and treated as, his by virtue of paragraph 3 (2), and—
 - (i) that other person is either a child or a person who is not entitled to supplementary benefit by virtue of Article 10 (persons completing secondary education); and
 - (ii) there is no one whose requirements are, or would but for exceptional circumstances be, aggregated with, and treated as, his under paragraph 3 (1); or
- (c) by £4, in any other case.

(2) There shall be wholly disregarded the weekly earnings of—

- (a) a child; and
- (b) a person who is not entitled to supplementary benefit by virtue of Article 10 (persons completing secondary education);

whose resources are, by virtue of paragraph 3 (2), aggregated with, and treated as, those of the person who has to provide for his requirements.

(3) Where a person who 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 becomes engaged in remunerative full-time work again in consequence of the ending of the stoppage—

(a) any advance of earnings made or offered to him during so much of that engagement as falls within the period of 15 days from the beginning of the engagement shall be taken into account in calculating or estimating his net weekly earnings; and

(b) for the purpose of any claim for supplementary benefit made by him during so much of that engagement as falls within that period of 15 days, sub-paragraph (1) shall have effect as regards his weekly earnings (but not those of any other person) subject to the following modification—

the reduction provided for in sub-paragraph (1) (b) or (c) shall not be applied to the full amount of his net weekly earnings but only to the amount (if any) by which his net weekly earnings exceed his net weekly earnings from his full-time work.

(4) The Department may by regulations made under this sub-paragraph provide that—

(a) any sum or a prescribed part of any sum mentioned in sub-paragraph (5) and prescribed amounts which the regulations provide are to be treated as related to any of those sums shall be deemed for the purposes of this Order to be earnings payable by and to such persons as are prescribed and to be so payable in respect of such periods as are prescribed; and

(b) those periods shall, so far as they are not periods of employment, be deemed for those purposes to be periods of employment; and

(c) any provision of the Industrial Relations (No. 2) (Northern Ireland) Order 1976 (a) relating to maternity pay or the Northern Ireland Maternity Pay Fund shall have effect with such modifications as the Department considers appropriate in consequence of any provision made in pursuance of head (a) or (b).

(5) The sums referred to in sub-paragraph (4) (a) are—

(a) a sum payable by way of maternity pay or payable by the Department of Manpower Services in pursuance of Article 23 of the Industrial Relations (No. 2) (Northern Ireland) Order 1976 in respect of maternity pay;

(b) a sum which is payable by the Department of Manpower Services by virtue of Article 42 (3) (a) of the Industrial Relations (Northern Ireland) Order 1976 (b) (“the No. 1 Order”) in respect of arrears of pay and which by virtue of Article 25 (1) of the Industrial Relations (No. 2) (Northern Ireland) Order 1976 is to go towards discharging a liability to pay maternity pay;

(c) a sum payable in respect of arrears of pay in pursuance of an order for reinstatement or re-engagement under the No. 1 Order;

(d) a sum payable by way of pay in pursuance of an order under the No. 1 Order for the continuation of a contract of employment;

(e) a sum payable by way of remuneration in pursuance of a protective award under the No. 1 Order.

Disregard of £4 a week of certain income

23.—(1) Subject to the provisions of this paragraph and of paragraphs 24 and 25, there shall be disregarded £4 a week of the income which would, but for this paragraph, be taken into account, except so far as it consists of earnings or of any sum taken into account under paragraph 20.

(2) This paragraph does not apply to income consisting of—

(a) any child benefit;

(b) any family income supplement under the Family Income Supplements Act (Northern Ireland) 1971;

(a) S.I. 1976/2147 (N.I. 28). (b) S.I. 1976/1043 (N.I. 16).

- (c) any graduated retirement benefit under section 35 of the National Insurance Act (Northern Ireland) 1966 (a);
- (d) any payment for the maintenance of a person whose requirements are taken into account in ascertaining the amount of supplementary benefit, being a payment made under the order of a court or a payment made by a person who, for the purposes of this Order, is liable to maintain the first-mentioned person;
- (e) any guaranteed minimum pension within the meaning of the Social Security Pensions (Northern Ireland) Order 1975.

(3) This paragraph does not apply to income so far as it consists of any benefit under Chapters I to III of Part II of the Social Security (Northern Ireland) Act 1975 or Part III of the Social Security Pensions (Northern Ireland) Order 1975, except as provided in paragraph 24 and subject, in the case of any mobility allowance, to section 37A (7) of the Social Security (Northern Ireland) Act 1975.

(4) Except as provided in paragraph 24, this paragraph applies to income consisting of injury benefit under Part II of the Social Security (Northern Ireland) Act 1975, or of industrial death benefit under that Part of that Act only to the extent of—

- (a) so much of—
 - (i) any widow's pension payable at the higher permanent rate under section 68 of the Social Security (Northern Ireland) Act 1975; or
 - (ii) any widower's pension under section 69 of that Act;
 - as exceeds the sum specified in Article 8 (1) (a) of the Social Security Pensions (Northern Ireland) Order 1975;
- (b) any parent's pension under section 71 of the Social Security (Northern Ireland) Act 1975;
- (c) any relative's pension under section 72 of that Act.

(5) Except as provided in paragraph 24, this paragraph applies to income consisting of any pension or allowance for a widow or widower, or in respect of children, granted in respect of a death due to service or war injury under powers conferred by or under any of the Acts mentioned in sub-paragraph (6) (a), or under any scheme mentioned in sub-paragraph (6) (b), only to the extent of so much of any pension or allowance for a widow or widower as exceeds the sum specified in Article 8 (1) (a) of the Social Security Pensions (Northern Ireland) Order 1975.

(6) The Acts and schemes mentioned in sub-paragraph (5) are—

- (a) the Ministry of Pensions Act 1916 (b), the Air Force (Constitution) Act 1917 (c), the Personal Injuries (Emergency Provisions) Act 1939 (d), the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 (e), the Polish Resettlement Act 1947 (f), the Home Guard Act 1951 (g) and the Ulster Defence Regiment Act 1969 (h);
- (b) any scheme made under the Injuries in War (Compensation) Act 1914 (i) or the Injuries in War Compensation Act 1914 (Session 2) (j) and any War Risk Compensation Scheme for the Mercantile Marine.

(7) Sub-paragraph (5) applies in relation to a pension or allowance for a woman who was living with a deceased person as his wife as it applies in relation to a pension or allowance for a widow.

(8) In this paragraph and in paragraph 24 any reference to an allowance, pension, benefit or other payment of any description includes a reference to any analogous allowance, pension, benefit or payment.

(9) Until—

- (a) 6th April 1978, in sub-paragraph (2), head (e) shall be omitted; and

(a) 1966 c.6 (N.I.). (b) 1916 c. 65. (c) 1917 c. 51. (d) 1939 c. 82.
 (e) 1939 c. 83. (f) 1947 c. 19. (g) 1951 c. 8 (15 & 16 Geo. 6 & 1 Eliz. 2).
 (h) 1969 c. 65. (i) 1914 c. 30. (j) 1914 c. 18 (5 & 6 Geo. 5).

- (b) 6th April 1979, in sub-paragraph (3), the words “or Part III of the Social Security Pensions (Northern Ireland) Order 1975” shall be omitted, and, in sub-paragraphs (4) (a) and (5), for the words “as exceeds the sum specified in Article 8 (1) (a) of the Social Security Pensions (Northern Ireland) Order 1975” there shall be substituted the words “as exceeds the rate specified in Part I of Schedule 4 to the Social Security (Northern Ireland) Act 1975 for a widow’s pension under that Act”.

24.—(1) In the case of a person who has preserved 1976 rights, paragraph 23 applies to—

- (a) income consisting of any benefit under Chapters I to III of Part II of the Social Security (Northern Ireland) Act 1975, or Part III of the Social Security Pensions (Northern Ireland) Order 1975, to the extent of—

(i) £0.38 of—

(a) any increase of widow’s allowance or widowed mother’s allowance, being an increase in respect of an only, or the elder or eldest, qualifying child, or a second qualifying child; or

(b) any child’s special allowance or any increase thereof in respect of a second qualifying child;

(ii) £0.28 of—

(a) any increase of a widow’s allowance or widowed mother’s allowance, being an increase in respect of any additional qualifying child beyond the first two; or

(b) any increase of a child’s special allowance in respect of any additional qualifying child beyond the second;

- (b) income consisting of injury benefit under Part II of the Social Security (Northern Ireland) Act 1975, or of industrial death benefit under that Part of that Act, to the extent of—

(i) £0.38 of any allowance under section 70 of that Act in respect of an only, or the elder or eldest, qualifying child, or a second qualifying child;

(ii) £0.28 of any allowance under that section in respect of any additional qualifying child beyond the first two;

- (c) such income as is referred to in the case specified in paragraph 23 (5), to the extent of—

(i) £0.38 of any allowance in respect of an only, or the elder or eldest, child, or a second child;

(ii) £0.28 of any allowance in respect of any additional child beyond the first two.

(2) For the purposes of this paragraph a person has preserved 1976 rights if—

(a) at any time before 15th November 1976 he was entitled simultaneously to supplementary benefit and to any one or more of the allowances and increased allowances referred to in sub-paragraph (1); and

(b) he has since that time continued so entitled without interruption for any period longer than 13 weeks, excepting any periods during which he has been an in-patient in a hospital.

(3) For the purpose of sub-paragraph (2) (b), the question whether the person was entitled to supplementary benefit at any time is determined on the assumption that he then had preserved 1976 rights.

(4) Until 6th April 1979, in sub-paragraph (1) (a), the words “or Part III of the Social Security Pensions (Northern Ireland) Order 1975” shall be omitted.

Limited disregard of occupational pensions etc.

25.—(1) There shall not be disregarded under paragraph 23 more than £1 a week of any income consisting of one or more payments of any kind to which this paragraph applies.

(2) This paragraph applies to—

- (a) any pension or other periodical sum paid to, or to the widow of, a person by reason of any service or employment in which he was formerly engaged;
- (b) any periodical sum paid to a person on account of his employment having terminated by reason of redundancy.

(3) Heads (a) and (b) of sub-paragraph (2) apply whether or not the payment is made by a former employer and whether or not there is any right to receive it; but head (a) shall not be construed as applying to—

- (a) any pension or allowance mentioned in paragraph 23 (4) or (5) or 24 (1) (b) or (c) or any other payment by way of compensation for injury, disease, disablement or death suffered by a person by reason of the service or employment in which he was engaged; or
- (b) any payment out of a trust fund established for relieving hardship in particular cases and made at the discretion of the trustees of the fund.

Specific resources falling to be treated as income

26.—(1) In calculating a person's resources for the purposes of this Schedule there shall be treated as income (and, subject to paragraph 23, taken into account as such)—

- (a) any amount which, while he is employed in such circumstances as are mentioned in sub-paragraph (2)—
 - (i) becomes available to him; or
 - (ii) would become available to him on application being duly made; by way of repayment of income tax deducted from his emoluments, whether in the same or any previous office or employment, in pursuance of section 204 of the Income and Corporation Taxes Act 1970 (a) (pay as you earn), except so far as the repayment in question is attributable to any period of absence from work through sickness or other similar cause or to any period of unemployment; and
- (b) any payment which he receives or is entitled to obtain, whether from a trade union or any other source, by reason of being without employment for any period during a stoppage of work which is due to a trade dispute at his place of employment.

(2) The circumstances referred to in sub-paragraph (1) (a) are that the person concerned is employed in an office or employment and that his emoluments therefrom are assessable to income tax under Schedule E.

Further reduction of resources

27. Any resources not specified in the foregoing provisions of this Schedule may be treated as reduced by such amount (if any) as may be reasonable in the circumstances of the case.

Resources deliberately abandoned

28. If a person has deprived himself of any resources for the purpose of securing supplementary benefit, or increasing the amount of any such benefit, those resources may be taken into account as if they were still his.

Discretionary trusts

29. Any sum which is held on a discretionary trust for the benefit of a person may be treated as included in his resources.

Attribution of assets

30.—(1) Subject to paragraph 29 and to the following provision of this paragraph, a person shall be deemed for the purposes of this Schedule to own an asset if he is

(a) 1970 c. 10.

absolutely entitled in possession to the whole beneficial interest therein and not otherwise.

(2) Where two or more persons are beneficially entitled in possession to any asset they shall be treated for the purposes of this Schedule as if each of them were entitled in possession to the whole beneficial interest in an equal share in the asset unless it appears that their respective beneficial interests are not equal; and in that case they shall be treated as respectively entitled in possession to the whole beneficial interest in such shares as appears to be just.

SCHEDULE 2

Articles 13 and 19.

RECOVERY OF SUMS PAID BY WAY OF SUPPLEMENTARY BENEFIT ON AWARDS MADE BY VIRTUE OF ARTICLE 13 (1)

PART I

GENERAL

1.—(1) In this Schedule—

“available earnings”, in relation to an employee on any pay-day, means the earnings which remain payable to him on that pay-day after deduction by his employer of all amounts lawfully deductible by the employer otherwise than by virtue of a deduction notice;

“the claimant”, in relation to a notification of award under Article 13 (4), means the person stated therein to have had an award of supplementary benefit made to him;

“deduction notice” has the meaning assigned by paragraph 2 (1);

“employment” means employment in remunerative full-time work, and related expressions shall be construed accordingly;

“pay-day”, in relation to earnings paid to an employee, means an occasion on which they are paid;

“prescribed” means prescribed by the regulations;

“protected earnings”, in the case of any person, means his protected earnings for the purposes of Part II of this Schedule, as determined by the Commission in accordance with Article 13 (5);

“the regulations” means regulations made by the Department under Article 19;

“repaid by the claimant” means paid by the claimant directly to the Department by way of repayment of supplementary benefit paid to the claimant on any award made to him during the period of 15 days from the beginning of the relevant engagement (including any additional supplementary benefit paid to him on that award where the amount of the award is increased on an appeal or as a result of a review).

(2) For the purposes of Part II of this Schedule in its application to any sum which is recoverable from a person by virtue of paragraph (2) of Article 13 as having been paid to him by virtue of that paragraph during the period of 15 days from the beginning of an engagement falling within paragraph (1) of that Article, “the relevant engagement” means that engagement.

(3) The provisions of Part II of this Schedule relating to the recovery of supplementary benefit by deduction from earnings are framed in terms applicable to employees whose earnings are paid weekly; but the Department may, by the regulations, provide that, in the case of employees whose earnings are paid otherwise, those provisions shall have effect with such adaptations as may be specified in the regulations.

PART II

RECOVERY OF SUPPLEMENTARY BENEFIT PAID

Service and contents of deduction notices

2.—(1) Where the Department receives a notification of award under Article 13 (4), then, unless the amount of supplementary benefit specified therein as having been awarded to the claimant has already been repaid by the claimant, the Department shall serve on the person, if any, by whom the claimant is for the time being employed a notice under this paragraph (in this Schedule referred to as a “deduction notice”) relating to the claimant.

(2) Every deduction notice shall contain the following particulars—

- (a) particulars enabling the employer to identify the claimant;
- (b) the amount by reference to which deductions are to be made by the employer from the claimant’s earnings by virtue of the notice;
- (c) the claimant’s protected earnings; and
- (d) such other particulars as may be prescribed.

(3) Subject to the following provisions of this Part of this Schedule—

- (a) the amount specified in a deduction notice as the amount by reference to which deductions are to be made by the employer shall be equal to the amount of supplementary benefit specified in the notification of award to the claimant under Article 13 (4) or, if any part of the last-mentioned amount has been repaid by the claimant before the date of the deduction notice, shall be equal to so much of that amount as has not been so repaid before that date; and
- (b) the sum so specified as the claimant’s protected earnings shall, subject to the regulations, be the same as that specified in that notification of award.

(4) If, after the Department has received a notification of award under Article 13 (4) and served a deduction notice relating to the claimant, the Department receives a further notification of award relating to the same person, then, unless the aggregate of the amounts of supplementary benefit respectively specified in all notifications of award relating to the claimant which have been received by the Department since the beginning of the relevant engagement has already been repaid by the claimant, the Department shall serve a further deduction notice on the person, if any, by whom the claimant is for the time being employed.

(5) Where a further deduction notice is served at any time by virtue of sub-paragraph (4), then—

- (a) if at that time there is in force in relation to the claimant a previous deduction notice served after the beginning of the relevant engagement, the amount specified in the further deduction notice as the amount by reference to which deductions are to be made by the employer shall be equal to the sum of the following amounts—

- (i) the amount specified in the previous deduction notice as the amount by reference to which deductions are to be so made; and
- (ii) the amount of supplementary benefit which, in the further notification of award in consequence of which the further deduction notice is being served, is specified as having been awarded to the claimant;

reduced by the aggregate of any amounts repaid by the claimant on or after the date of the previous notice and before the date of the further deduction notice;

- (b) in any other case, the amount so specified in the further deduction notice shall be the amount which would fall to be so specified in that notice in accordance with paragraph 5 if the further deduction notice were being served by virtue of that paragraph.

(6) Service of a further deduction notice by virtue of sub-paragraph (4) shall have the effect of cancelling any earlier deduction notice relating to the claimant which is in force when the further deduction notice is served, but shall not affect the validity of anything done by virtue of the earlier notice while it was in force.

Period for which deduction notice has effect

3.—(1) A deduction notice shall come into force when it is served on the employer of the claimant to whom it relates and shall (unless previously cancelled by virtue of paragraph 2 (6) or sub-paragraph (2)) cease to have effect as soon as any of the following events occur—

- (a) the claimant dies or ceases to be in the employment of the person on whom the deduction notice was served;
- (b) the aggregate of—
 - (i) all amounts, if any, repaid by the claimant on or after the date of the deduction notice in question; and
 - (ii) all amounts, if any, deducted from the claimant's earnings by virtue of the deduction notice in question or, if the condition specified in sub-paragraph (4) is fulfilled in the case of the notice in question, all amounts, if any, deducted from the claimant's earnings by virtue of that notice or any relevant previous deduction notice within the meaning of that sub-paragraph;
reaches the amount specified in the notice in question as the amount by reference to which deductions are to be made by the employer;
- (c) the expiration of the period of 14 weeks beginning with the date of the notice.

(2) The Department may at any time give a direction in writing cancelling a deduction notice, and shall cause a copy of any such direction to be served on the employer concerned and on the claimant. A direction given under this sub-paragraph shall take effect when a copy of it is served on the employer concerned.

(3) Where a deduction notice is cancelled under sub-paragraph (2), no further deduction notice relating to the claimant shall be served in connection with any supplementary benefit awarded to him by virtue of Article 13 (1) during the period of 15 days from the beginning of the relevant engagement.

(4) If, in the case of a deduction notice which is in force (in this sub-paragraph referred to as "the current notice") the following condition is fulfilled, namely that at the time when that notice was served on the employer there was in force in relation to the claimant a previous deduction notice served on the same employer after the beginning of the relevant engagement, each of the following shall for the purposes of sub-paragraph (1) (b) (ii) constitute a relevant previous deduction notice, that is to say—

- (i) that previous deduction notice; and
- (ii) any earlier previous deduction notice relating to the claimant which was served on that employer after the beginning of the relevant engagement, if (subject to sub-paragraph (5)) the claimant was continuously in the employment of that employer from the time when the earlier previous notice in question was served to the time when the current notice was served.

(5) For the purposes of sub-paragraph (4) the continuity of a period of employment under the same employer shall be treated as having been broken on any occasion on which a deduction notice relating to the employee, which was served on the employer after the beginning of the relevant engagement, ceased to have effect by reason of the expiration of the period of 14 weeks mentioned in sub-paragraph (1) (c).

Effect of deduction notice

4.—(1) While a deduction notice is in force in respect of an employee, the following provisions of this paragraph shall apply as regards any pay-day on which his available earnings exceed his protected earnings (as specified in the notice):

Provided that, as regards any pay-day falling within the period of seven days beginning with the day on which the deduction notice comes into force, sub-paragraphs (2) and (3) (a) shall have effect as if for the words "shall deduct" there were substituted the words "may deduct".

In this paragraph "the notified amount", in relation to a deduction notice, means the amount specified in that notice in accordance with paragraph 2 (2) (b).

(2) If on the pay-day in question the employee's available earnings exceed his protected earnings (as specified in the deduction notice) by an amount equal to or less than one-tenth of the notified amount, the employer shall deduct from the employee's available earnings the amount of the excess.

(3) If on the pay-day in question the employee's available earnings exceed his protected earnings (as specified in the deduction notice) by an amount greater than one-tenth of the notified amount, the employer—

(a) shall deduct from the employee's available earnings an amount equal to one-tenth of the notified amount; and

(b) may with the consent in writing of the employee deduct from the employee's available earnings a larger amount:

Provided that the total amount deducted from the employee's available earnings by virtue of this sub-paragraph on any one pay-day shall not be greater than the amount by which the employee's available earnings exceed his protected earnings (as specified in the deduction notice).

(4) Notwithstanding anything in sub-paragraph (2) or (3)—

(a) the employer shall not make a deduction on a pay-day by virtue of the deduction notice if the employee satisfies him that up to that pay-day he has not obtained payment of the supplementary benefit to which the deduction notice relates; and

(b) the employer shall not on any pay-day deduct from the employee's earnings by virtue of the deduction notice an amount greater than the amount by which, immediately before that pay-day, the notified amount exceeds the aggregate of all such amounts as, in relation to that notice, are mentioned in paragraph 3 (1) (b) (i) and (ii).

(5) Where on any pay-day the employer makes no deduction from the employee's earnings by reason only that the employee has satisfied him as mentioned in sub-paragraph (4) (a), the employer shall forthwith give notice of that fact to the Department at the prescribed place and in the prescribed manner.

(6) Where the employer is required by sub-paragraph (2) or (3) (a) to make a deduction on a pay-day and the amount of the deduction which he would be so required to make apart from this sub-paragraph includes a fraction of 1p, the amount which he is so required to deduct on that pay-day shall be reduced by that fraction.

Power to serve further deduction notice in certain circumstances

5.—(1) Where a deduction notice has ceased to have effect by reason of the claimant ceasing to be in the employment of the person on whom the notice was served or by reason of the expiration of the period of 14 weeks mentioned in paragraph 3 (1) (c), the Department may, if it thinks fit, serve a further deduction notice on the person, if any, by whom the claimant is for the time being employed.

(2) Notwithstanding anything in the foregoing provisions of this Schedule, in any further deduction notice served by virtue of sub-paragraph (1)—

(a) the amount specified as the amount by reference to which deductions are to be made by the employer shall be equal to the amount mentioned in sub-paragraph (3); and

(b) the amount specified as the claimant's protected earnings shall, subject to the regulations, be the same as the amount specified in that behalf in the last deduction notice relating to him which was in force before the date of the further deduction notice.

(3) The amount referred to in sub-paragraph (2) (a) is the aggregate of the amounts of supplementary benefit respectively specified in all notifications of award under Article 13 (4) relating to the claimant received by the Department after the beginning of the relevant engagement and before the date of the further deduction notice in question reduced—

- (a) by so much, if any, of the aggregate of those amounts as has been repaid by the claimant before the date of the further deduction notice;
- (b) in respect of every previous deduction notice served after the beginning of the relevant engagement which has been in force in relation to the claimant, by whichever is the greater of the following amounts—
 - (i) the aggregate of the amounts actually deducted by the relevant employer from the claimant's earnings by virtue of the previous deduction notice in question; and
 - (ii) the aggregate of the amounts which that employer was required by paragraph 4 (2) or 4 (3) (a) to deduct from those earnings by virtue of that previous notice.

Liability of employers

6.—(1) A person who by virtue of a deduction notice makes one or more deductions from the earnings of a person in his employment shall, in accordance with the regulations, pay the amount or amounts deducted to the Department.

(2) No criminal proceedings shall lie against any person on account of a contravention of sub-paragraph (2) or (3) (a) of paragraph 4; but if, on any pay-day on which the said sub-paragraph (2) or the said sub-paragraph (3) (a) requires a person to make a deduction from the earnings of a person in his employment, the employer makes no deduction from the employee's earnings, or deducts from them an amount smaller than the amount which he is thereby required to deduct, then—

- (a) so much of the last-mentioned amount as is not deducted by the employer from the employee's earnings on that pay-day shall be recoverable from the employer by the Department; and
- (b) any sum recovered from the employer by the Department by virtue of head (a) in consequence of his omission to deduct the required amount from the employee's earnings on that pay-day shall, for the purposes of this Schedule, be deemed to have been repaid by the employee.

(3) For the purposes of any proceedings brought by the Department by virtue of sub-paragraph (2) (a) against a person in connection with a deduction notice served on him in respect of a person who at the material time was in that person's employment, it shall be presumed, except in so far as the contrary is proved, that on every pay-day which occurred while that notice was in force the employee's available earnings exceeded his protected earnings (as specified in the notice) by an amount greater than one-tenth of the notified amount (within the meaning of paragraph 4).

Right of Department to recover directly from claimant

7.—(1) Where the Department has received a notification of award under Article 13 (4) and it is at any time not practicable for it, by means of a deduction notice, to effect recovery of—

- (a) the amount of supplementary benefit specified in that notification as having been awarded to the claimant; or
- (b) so much of that amount as, not having previously been repaid by the claimant or deducted from the claimant's earnings by virtue of this Part of this Schedule, remains to be recovered from the claimant;

the amount of supplementary benefit so specified or so much of it as remains to be recovered from the claimant, as the case may be, shall, by virtue of this paragraph, be recoverable from the claimant by the Department.

(2) For the purpose of any proceedings brought by virtue of this paragraph a certificate purporting to be signed by the Head of the Department or a secretary or

assistant secretary of the Department and stating that it is not practicable for the Department, by means of a deduction notice, to effect the recovery of—

(a) the amount of supplementary benefit specified in a notification of award under Article 13 (4) as having been awarded to the claimant; or

(b) so much of that amount as remains to be recovered from the claimant;

shall be conclusive evidence of the matters dealt with in the certificate (other than any matter affecting the determination of the actual amount, if any, which the Department is entitled to recover from the claimant by virtue of this paragraph).

Increase of amount of award on appeal or review

8. If, after the Department has received a notification of award under Article 13 (4) and served a deduction notice relating to the claimant, the amount of the award which was the subject of the notification is increased—

(a) on an appeal under Article 20; or

(b) as a result of a review by the Commission of any determination affecting that amount;

the foregoing provisions of this Schedule shall have effect as if on the date on which the increase is awarded the Department had received a further notification of award under Article 13 (4) specifying the amount of the increase as the amount of supplementary benefit awarded to the claimant and, subject to the regulations, specifying as the claimant's protected earnings the same amount as was specified in that behalf in the last notification of award relating to him which was received by the Department. References in the provisions of this Schedule to a notification of award shall be construed accordingly.

PART III

PURPOSES FOR WHICH PROVISION MAY BE MADE BY THE REGULATIONS

1. Any purpose for which provision is, by Article 13 or Part I or II of this Schedule, authorised or required to be made by the regulations.

2. For requiring, in such cases as may be prescribed, notice to be given at the prescribed place and in the prescribed manner to the Department where, after a deduction notice relating to any person has been duly served, that person ceases to be in the employment of the person on whom that notice was served or, having so ceased, subsequently enters the employment of the same or any other person.

3. For requiring or enabling the Commission, in such circumstances as may be prescribed, to review any determination made by them of a person's protected earnings for the purposes of Part II of this Schedule.

4. For enabling the Department to vary any deduction notice for the time being in force so far as may be necessary to bring the sum specified in the notice as the protected earnings, for the purposes of Part II of this Schedule, of the person to whom the notice relates into conformity with any determination of that person's protected earnings for those purposes made by the Commission (whether on a review or otherwise) after the date of the notice.

5. For modifying the operation of Part II of this Schedule, and any provision of Part I of this Schedule for the purposes thereof, in cases where Article 13 (1) applies to the same person as regards two or more separate periods of 15 days.

Article 33.

SCHEDULE 3

**CONSTITUTION AND PROCEEDINGS OF SUPPLEMENTARY
BENEFITS COMMISSION FOR NORTHERN IRELAND**

1.—(1) The Supplementary Benefits Commission for Northern Ireland shall continue by that name as a body corporate having perpetual succession and a common seal.

(2) The Commission shall consist of a chairman and not more than four other members appointed by the Head of the Department.

- (3) At least one member of the Commission shall be a woman.
2. Every member of the Commission shall hold and vacate office in accordance with the terms of his appointment.
3. A person who has ceased to be a member of the Commission shall be eligible for reappointment.
4. The Commission may act notwithstanding any vacancy among their members.
5. The procedure and quorum of the Commission shall be such as the Commission may from time to time determine.
6. The Department may pay to members of the Commission such remuneration and such allowances in respect of expenses incurred by them in connection with the work of the Commission as the Department may, with the approval of the Department of the Civil Service, from time to time determine.
7. Every document purporting to be an instrument issued by the Commission and to be sealed with the seal of the Commission or to be signed by a person authorised to act in that behalf shall be received in evidence and be deemed to be such an instrument without further proof, unless the contrary is shown.

SCHEDULE 4

Article 34.

CONSTITUTION, JURISDICTION AND PROCEEDINGS OF APPEAL TRIBUNALS

1. A tribunal shall consist of a chairman and two other members.
2. A tribunal shall have jurisdiction in respect of such area as may be assigned to it by the Department.
- 3.—(1) The chairman and other members of a tribunal shall be appointed by the Department.
- (2) The chairman of a tribunal shall be drawn from a panel of chairmen constituted by the Department.
- (3) The other members of a tribunal shall be drawn one from each of two panels constituted by the Department, of which one shall be a panel of persons appearing to the Department to represent work-people.
4. The Department shall pay to the chairman of a tribunal such remuneration, and to any member thereof such travelling and other allowances (including compensation for loss of remunerative time), as the Department may, with the consent of the Department of the Civil Service, determine.
5. The Department shall assign to each tribunal a clerk and such other officers and servants and shall pay to them such salaries or fees and such allowances as the Department may, with the consent of the Department of the Civil Service, determine.
- 6.—(1) The Department may make rules—
 - (a) as to the appointment of persons to, and the tenure of office of members of, panels;
 - (b) as to the selection of members of tribunals from such panels, and the cases in which such members are or are not qualified to act;
 - (c) regulating the practice and procedure of tribunals (including the procedure in connection with the bringing of matters before a tribunal, and as to the time within which matters may be brought before tribunals);
 - (d) as to the payment by the Department to persons attending proceedings before tribunals of travelling and other allowances (including compensation for loss of remunerative time);
 - (e) for authorising proceedings notwithstanding that the members of the tribunal are not all present.

(2) The power under this paragraph to make rules as to procedure includes power to make provision as to the representation of one person in any proceedings by another person.

(3) In any case where proceedings take place in accordance with rules made under sub-paragraph (1) (e), the tribunal shall, notwithstanding anything in this Order, be deemed to be properly constituted, and the chairman shall have a second or casting vote.

Article 42 (1).

SCHEDULE 5

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

General provisions

1.—(1) In so far as any order, rule, regulation, appointment, approval or other thing made or done, or deemed to be made or done, under an enactment repealed by this Order could have been made or done under a corresponding provision of this Order, it shall not be invalidated by the repeal but shall have effect as if made or done under that provision.

(2) Anything begun under an enactment repealed by this Order may be continued under the corresponding provision of this Order as if begun under that provision.

(3) References in this Order to things done, suffered or occurring in the past shall, so far as the context requires for the continuity of operation between enactments repealed by this Order and the corresponding provisions of this Order, be construed as including references to things done, suffered or occurring before the commencement of this Order.

(4) Where any instrument or document refers expressly or by implication to an enactment repealed by this Order, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Order.

2.—(1) Paragraph 1 applies in particular to any claim for, or award of, supplementary benefit made before the commencement of this Order and to anything done or occurring in, or for the purposes of, adjudication proceedings before that time.

(2) Any question as to entitlement to, or the amount of, any supplementary benefit, and any other question with respect to supplementary benefit, for any period shall be determined in accordance with the provisions with respect to those matters in force during that period.

3. Any order made after the commencement of this Order, and any order so made varying or revoking an earlier order made before or after the commencement of this Order, appointing a day upon which any of the enactments specified in Part II of Schedule 7 shall come into operation, or specifying a day from which any such enactment shall have effect, may include consequential provision for the amendment or repeal of such of the following provisions of this Order as may be relevant to the purposes of the order—

Articles 16 (3), 20 (7), 25 (5) and 42 (3) and in Schedule 1 paragraphs 23 (9) and 24 (4).

PART II

Specific provisions

(including some retained from previous Acts)

4. Any enactment or instrument that is to be construed in accordance with section 1 (3) of the Supplementary Benefits &c. Act (Northern Ireland) 1966 (a), shall continue to be so construed notwithstanding the repeal by this Order of the said Act of 1966.

(a) 1966 c. 28 (N.I.).

5.—(1) The following provisions of this paragraph shall apply where, at 15th August 1966, a person (in this paragraph referred to as “the former beneficiary”) was in receipt of—

- (a) a pension under the Old Age Pensions Act (Northern Ireland) 1936 (a); or
- (b) an assistance grant under the National Assistance Act (Northern Ireland) 1948 (b).

(2) This Order shall apply, subject to the following provisions of this paragraph, as if a claim for a supplementary pension or a supplementary allowance, as the case may be, had been duly made by the former beneficiary or, if the former beneficiary is a woman falling within paragraph 3 (1) of Schedule 1, by the other person falling within that paragraph.

(3) If the former beneficiary or the said other person is not entitled to a supplementary pension or supplementary allowance the Commission may nevertheless award him such a pension or allowance at a rate not exceeding that of the pension or grant mentioned in sub-paragraph (1); and if he is entitled to a supplementary pension or supplementary allowance but at a lower rate the Commission may determine that it shall be payable at a rate not exceeding that of the said pension or grant.

(4) If the former beneficiary is a woman falling within paragraph 3 (1) of Schedule 1 then, unless she otherwise requests, so much of any supplementary pension or supplementary allowance payable (whether by virtue of this paragraph or otherwise) to the other person falling within that paragraph as is equal to the pension or grant mentioned in sub-paragraph (1) shall be issued to the former beneficiary.

6. A person who has deprived himself of any property or income as described in paragraph (5) of Schedule 1 to the Old Age Pensions Act (Northern Ireland) 1936 or section 9 (6) of the National Assistance Act (Northern Ireland) 1948 shall be deemed to be a person to whom paragraph 28 of Schedule 1 applies.

7.—(1) Any proceedings for the recovery of a sum which, if the Supplementary Benefits &c. Act (Northern Ireland) 1966 had not been passed, could have been taken by the National Assistance Board for Northern Ireland may be taken—

- (a) if they are proceedings under section 20 or 21 of the National Assistance Act (Northern Ireland) 1948, by the Commission;
- (b) in any other case, by the Department.

(2) Any payments ordered in proceedings continued or begun by virtue of sub-paragraph (1) or of paragraph 8 of Schedule 6 to the Supplementary Benefits &c. Act (Northern Ireland) 1966 which, if that Act had not been passed, would have been ordered to be made to the National Assistance Board for Northern Ireland shall be ordered to be made to the Department.

(3) The Commission instead of the Department shall be a party to any proceedings for the enforcement, suspension, variation, revival, discharge or revocation of an order under section 20 or 21 of the National Assistance Act (Northern Ireland) 1948 for the payment of money which, by virtue of sub-paragraph (2) or of paragraph 4, is payable to the Department instead of to the National Assistance Board for Northern Ireland.

8. In Article 20 (1) (f) the reference to Article 28 (3) of the Rates (Northern Ireland) Order 1977 includes a reference to Article 29 (2) of the Rates (Northern Ireland) Order 1972 (c).

SCHEDULE 6

Article 42 (2).

AMENDMENTS

Criminal Evidence Act (Northern Ireland) 1923 (c. 9)

1. In Schedule 1 at the end insert—

“S.I. 1977 No. 2156 The Supplementary Benefits (Northern Ireland) Order 1977. The whole Order.”

(a) 1936 c. 31 (N.I.). (b) 1948 c. 13 (N.I.). (c) S.I. 1972/1633 (N.I. 16).

*Illegitimate Children (Affiliation Orders) Act
(Northern Ireland) 1924 (c. 27)*

2.—(1) In section 2 (2) for “or pursuant to section 25 of the Supplementary Benefits &c. Act (Northern Ireland) 1966 by the Supplementary Benefits Commission for Northern Ireland” substitute “or pursuant to Article 24 of the Supplementary Benefits (Northern Ireland) Order 1977 by the Supplementary Benefits Commission for Northern Ireland.”.

(2) In section 2 (3) for “section 25 (2) of the Supplementary Benefits &c. Act (Northern Ireland) 1966” substitute “Article 24 (2) of the Supplementary Benefits (Northern Ireland) Order 1977”.

Finance Act (Northern Ireland) 1961 (c. 10)

3. In section 13, at the end, insert “or the Supplementary Benefits (Northern Ireland) Order 1977”.

Magistrates' Courts Act (Northern Ireland) 1964 (c. 21)

4. In section 98 (d) for “or section 24 of the Supplementary Benefits &c. Act (Northern Ireland) 1966” substitute “or Article 23 of the Supplementary Benefits (Northern Ireland) Order 1977”.

5. In section 110 (9) for paragraph (h) substitute—

“(h) orders under Article 23 of the Supplementary Benefits (Northern Ireland) Order 1977;”.

Legal Aid and Advice Act (Northern Ireland) 1965 (c. 8)

6.—(1) In section 4 (5) for the words from “paragraphs” onwards substitute “paragraphs 17, 18 and 23 to 25 of Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977”.

(2) In section 4 (6) for “the said paragraph 19” substitute “the said paragraph 17”.

(3) In section 4 (8) the amendment made by the Supplementary Benefits &c. Act (Northern Ireland) 1966, Schedule 5, paragraph 8 (3), (substituting “the Supplementary Benefits Commission for Northern Ireland, and the Commission” for “the National Assistance Board for Northern Ireland, and the Board”) shall continue to have effect notwithstanding the repeal of that Act.

7. In section 5 (5) (b) for “benefit under the Supplementary Benefits &c. Act (Northern Ireland) 1966” substitute “benefit under the Supplementary Benefits (Northern Ireland) Order 1977”; and the substitution by the said Act of 1966, Schedule 5, paragraph 9, of “benefit” for “assistance” in the last two places where that word occurred shall continue to have effect notwithstanding the repeal of that Act.

8. In section 7 (1) (b) for “benefit under the Supplementary Benefits &c. Act (Northern Ireland) 1966” substitute “benefit under the Supplementary Benefits (Northern Ireland) Order 1977”.

Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (c. 35)

9. In section 10 (2)—

(a) in paragraph (d) for “section 25 of the Supplementary Benefits &c. Act (Northern Ireland) 1966” substitute “Article 24 of the Supplementary Benefits (Northern Ireland) Order 1977”;

(b) in paragraph (e) for “section 24 of the Supplementary Benefits &c. Act (Northern Ireland) 1966” substitute “Article 23 of the Supplementary Benefits (Northern Ireland) Order 1977”.

10. In section 20 (2) the amendment in section 2 (3) of the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924 made by paragraph 2 (2).

Finance Act (Northern Ireland) 1968 (c. 17)

11. In section 22 the amendment in section 13 of the Finance Act (Northern Ireland) 1961 made by paragraph 3.

Children and Young Persons Act (Northern Ireland) 1968 (c. 34)

12. In section 20 (2) (a) for “the Supplementary Benefits Act (Northern Ireland) 1966” substitute “the Supplementary Benefits (Northern Ireland) Order 1977”.

Family Income Supplements Act (Northern Ireland) 1971 (c. 8)

13. In section 7 (3) for “Schedule 3 to the Supplementary Benefits Act” substitute “Schedule 4 to the Supplementary Benefits (Northern Ireland) Order 1977”.

14. In section 8 (2) for “the Supplementary Benefits Act” substitute “the Supplementary Benefits (Northern Ireland) Order 1977”.

*Payments for Debt (Emergency Provisions) Act
(Northern Ireland) 1971 (c. 30)*

15.—(1) In section 1 (3) for the first “or” substitute “, the Supplementary Benefits (Northern Ireland) Order 1977 (in this Act referred to as ‘the 1977 Order’) or”.

(2) In section 1 (4) for “section 6 of the Act of 1966” substitute “Articles 3 (1) and 5 of the 1977 Order”.

(3) In section 1 (5) for “section 19 of the Act of 1966” substitute “Article 20 of the 1977 Order”.

16.—(1) In section 11 (4) after “1966” insert “, the 1977 Order”.

(2) In section 11 (5) for “section 6 of the Act of 1966” substitute “Articles 3 (1) and 5 of the 1977 Order”.

(3) In section 11 (6) for “section 19 of the Act of 1966” substitute “Article 20 of the 1977 Order”.

17. In section 16 (1) after “the Act of 1966” insert “, ‘the 1977 Order’”.

*Health and Personal Social Services (Northern Ireland) Order 1972
(S.I. 1972/1265 (N.I. 14))*

18.—(1) In Article 99 (2) for “the Supplementary Benefits &c. Act (Northern Ireland) 1966” substitute “the Supplementary Benefits (Northern Ireland) Order 1977”.

(2) In Article 99 (4) for “Schedule 2 to the Supplementary Benefits &c. Act (Northern Ireland) 1966” substitute “Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977”.

National Insurance Measure (Northern Ireland) 1974 (c. 4)

19. In section 5 (1) after “the Supplementary Benefits Acts (Northern Ireland) 1966 to 1973,” insert “the Supplementary Benefits (Northern Ireland) Order 1977,”.

Social Security (Northern Ireland) Act 1975 (c. 15)

20. In section 80 (2) (b) for “the Supplementary Benefits &c. Act (Northern Ireland) 1966” substitute “the Supplementary Benefits (Northern Ireland) Order 1977”.

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

21. In Part III of Schedule 1 for “Chairman of an Appeal Tribunal constituted under Schedule 3 to the Supplementary Benefits &c. Act (Northern Ireland) 1966” substitute “Chairman of an Appeal Tribunal constituted in accordance with Schedule 4 to the Supplementary Benefits (Northern Ireland) Order 1977”.

*Industrial Relations (Northern Ireland) Order 1976
(S.I. 1976/1043 (N.I. 16))*

22. In Article 72—

(a) in paragraph (2) (b) for “under the Supplementary Benefits &c. Act (Northern Ireland) 1966” substitute “in accordance with the Supplementary Benefits (Northern Ireland) Order 1977” and for “section 19 (2) and (3) of that Act” substitute “Article 20 (2) and (3) of that Order”;

(b) for paragraph (4) (b) substitute—

“(b) Articles 23 and 25 of the Supplementary Benefits (Northern Ireland) Order 1977 (recovery of expenditure on supplementary benefits from persons liable for maintenance and recovery in cases of misrepresentation or non-disclosure) shall not apply to the supplementary benefit recouped.”;

(c) in paragraph (7) for the definition of “supplementary benefit” substitute—

“‘supplementary benefit’ has the same meaning as in the Supplementary Benefits (Northern Ireland) Order 1977”.

Article 42 (3).

SCHEDULE 7

REPEALS

PART I

IMMEDIATE REPEALS

Chapter or Number	Short Title	Extent of Repeal
1966 c. 28.	Supplementary Benefits &c. Act (Northern Ireland) 1966.	The whole Act.
1967 c. 20.	Finance Act (Northern Ireland) 1967.	Section 19.
1969 c. 19.	National Insurance &c. (No. 2) Act (Northern Ireland) 1969.	Section 8 (2) (g).
1971 c. 8.	Family Income Supplements Act (Northern Ireland) 1971.	Section 13 (1). In section 16 (1) the definition of “the Supplementary Benefits Act”.
1971 c. 28.	Social Security Act (Northern Ireland) 1971.	The whole Act.
S.I. 1972 No. 1265 (N.I. 14).	Health and Personal Social Services (Northern Ireland) Order 1972.	In Schedule 16, paragraphs 71, 73 and 74.
1973 c. 42.	National Insurance and Supplementary Benefit Act 1973.	Sections 6, 8 and 9 (4) (d). Schedules 4 and 5.
1975 c. 11.	Social Security Benefits Act 1975.	Section 11. Schedule 3. In Schedule 4, in paragraph 1 the words “11” and “3”, in paragraph 2, in the Table, all the entries (in both columns), and paragraph 5.

Chapter or Number	Short Title	Extent of Repeal
1975 c. 18.	Social Security (Consequential Provisions) Act 1975.	In Schedule 2, paragraphs 94 to 100 and 101 (b) to (e).
S. I. 1975 No. 1504 (N.I. 16).	Child Benefit (Northern Ireland) Order 1975.	Article 21. In Schedule 4, paragraphs 2, 3 and 8.
S. I. 1976 No. 427 (N.I. 9).	Social Security and Family Allowances (Northern Ireland) Order 1976.	Article 4 (2).
S. I. 1976 No. 1781 (N.I. 26).	Supplementary Benefits (Amendment) (Northern Ireland) Order 1976.	The whole Order.
S. I. 1977 No. 610 (N.I. 11).	Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977.	In Article 1, in paragraph (4) "11 (1), (2) and (7)", and paragraph (6). Article 11. In Article 14 (1) (a) the words "the 1966 Act and". In Article 15 (1) the words "the 1966 Act and". Article 18 (19), (20) and (22) to (24).

PART II
DEFERRED REPEALS

Number	Title	Extent of Repeal
S. I. 1975 No. 1503 (N.I. 15).	Social Security Pensions (Northern Ireland) Order 1975.	In Schedule 5, paragraph 10 (a). In Schedule 5, paragraphs 8, 9 and 10 (b) and (c).
S.I. 1977 No. 610 (N.I. 11).	Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977.	Article 18 (21).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order consolidates the Supplementary Benefits Acts (Northern Ireland) 1966 to 1975 and related enactments.