**1980 No. 381**

# SUPPLEMENTARY BENEFIT AND FAMILY INCOME SUPPLEMENTS

## The Supplementary Benefit and Family Income Supplements (Appeals) Rules (Northern Ireland) 1980

*Made* . . . . . *30th October 1980*

*Coming into operation* . . . *24th November 1980*

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 20A and 34 of, and paragraph 9 of Schedule 4 to, the Supplementary Benefits (Northern Ireland) Order 1977(**a**) and Article 1(5) of the Social Security (Northern Ireland) Order 1979(**b**) and of all other powers enabling it in that behalf, hereby makes the following rules:

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(**a**) S.I. 1977/2156 (N.I. 27); Art. 20A was inserted into that Order, and Sch. 4 was substituted, by the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) and Art. 20A was amended by the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8))

(**b**) S.I. 1979/396 (N.I. 5)

## PART I
## GENERAL

*Citation, commencement and interpretation*

**1.**—(1) These rules may be cited as the Supplementary Benefit and Family Income Supplements (Appeals) Rules (Northern Ireland) 1980 and shall come into operation on 24th November 1980.

(2) In these rules—

"the 1977 Order" means the Supplementary Benefits (Northern Ireland) Order 1977;

"the 1971 Act" means the Family Income Supplements Act (Northern Ireland) 1971(**c**);

"the 1979 Order" means the Social Security (Northern Ireland) Order 1979;

"benefit officer" means a person appointed in pursuance of Article 33(2) of the 1977 Order;

"Commissioner" has the same meaning as in the Social Security (Northern Ireland) Act 1975(**d**);

"interested person" means—

(*a*) in relation to Part II (appeals to a tribunal), any person mentioned in rule 6(2);

(*b*) in relation to Part III (appeals to a Commissioner), any person to whom, under rule 11(2)(*b*), notice of any oral hearing is required to be given;

"supplement officer" means a person appointed in pursuance of section 1(1A) of the 1971 Act(**e**);

"tribunal" means a tribunal constituted in accordance with Article 34 of the 1977 Order.

(3) Any notice or other document required or authorised to be given or sent to any person under the provisions of these rules shall be deemed to have been given or sent if it was sent by post to that person in accordance with rule 5 or 10(3) where applicable and, in any other case, at his ordinary or last known address and if so sent to have been given or sent on the day on which it was posted; and in a case where both a man and a woman are members of the same family for the purposes of the 1971 Act, any such notice or document shall, unless in any case or class of cases the Department otherwise directs, be deemed to have been given or sent to both of them if it has been given or sent to one of them.

(4) Any power given by these rules to extend the period during which anything is required to be done under these rules may be exercised in any case notwithstanding that the period in question has expired.

*Revocations and transitory provisions*

**2.**—(1) The Family Income Supplements (Appeal Tribunal) Rules (Northern Ireland) 1971(**f**) and the Supplementary Benefit (Appeal Tribunal) Rules (Northern Ireland) 1971(**g**) are hereby revoked.

(2) Where any matter has been begun but not completed under any rules revoked by these rules or a question arises before a tribunal, otherwise than by way of appeal, under the 1977 Order as unamended—

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(**c**) 1971 c. 8 (N.I.)
(**d**) 1975 c. 15
(**e**) Section 1(1A) was inserted into the 1971 Act by the Social Security (Northern Ireland) Order 1980
(**f**) S.R. & O. (N.I.) 1971 No. 124 (p. 615)
(**g**) S.R. & O. (N.I.) 1971 No. 162 (p. 769)

(*a*) (subject to regulation 4 of the Family Income Supplements (Transitional) Regulations (Northern Ireland) 1980(**h**) and regulation 4 of the Supplementary Benefit (Transitional) Regulations (Northern Ireland) 1980(**i**) (appeals against determinations of the Supplementary Benefits Commission)) the interested persons shall be determined in accordance with the revoked rules and they shall be the persons to whom notice of the hearing is to be given under rule 6(2);

(*b*) in relation to a question arising, otherwise than by way of appeal, under the 1977 Order as unamended Part II of these rules shall apply, with the necessary modifications, as in relation to an appeal.

(3) In relation to a decision of a tribunal given on any question arising, otherwise than by way of appeal, under the 1977 Order as unamended the parties to the proceedings for the purposes of rule 9(2) shall (subject to regulation 9 of the Supplementary Benefit (Transitional) Regulations (Northern Ireland) 1980 (proceedings, other than before a tribunal, to which the Supplementary Benefits Commission is a party)) be the persons who, whether under any rules revoked by these rules or under paragraph (2) of this rule, were the interested persons for the purposes of the proceedings before the tribunal.

(4) References in paragraphs (2) and (3) to the 1977 Order as unamended are to that Order immediately before the coming into force of the amendments made by Article 7 of, and Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980(**j**).

*Appointed day for the termination of appeals on a point of law from tribunals to the Court of Appeal*

**3.** The day appointed for the coming into force of paragraph 26 of Schedule 3 to the 1979 Order (which provides for the termination of appeals on a point of law from tribunals to the Court of Appeal) shall be 24th November 1980 so however that the provisions repealed by the said paragraph 26 of Schedule 3 shall continue to have effect in relation to determinations of a tribunal recorded in writing before 24th November 1980.

*Travelling and other allowances for persons attending oral hearings*

**4.** The Department may pay travelling and other allowances (including compensation for loss of remunerative time) in respect of attendance at an oral hearing before a tribunal or a Commissioner to an interested person, to a person representing or accompanying an interested person and to a person called to give evidence.

## PART II

## APPEALS TO A TRIBUNAL

*Time and manner of bringing appeals*

**5.** An appeal against a determination (including a determination to refuse to review a determination)—

(*a*) of a supplement officer under the 1971 Act;

(*b*) of a benefit officer under the 1977 Order, including a direction given pursuant to Article 14(1) of that Order (modification of right to supplementary allowance in certain cases of refusal or neglect to maintain) and a determination made under Article 25 of that Order (recovery under supplementary benefit and national assistance legislation in cases of misrepresentation or non-disclosure);

(**h**) S.R. 1980 No. 260
(**i**) S.R. 1980 No. 349
(**j**) S.I. 1980/870 (N.I. 8)

(*c*) of a benefit officer under regulations made pursuant to Article 72(2) of the Industrial Relations (Northern Ireland) Order 1976(**k**) (recoupment of supplementary benefit),

shall be brought by giving notice of the appeal in writing at an office of the Department, for transmission to the tribunal, within 28 days beginning with the date on which notice of that determination is given, or within such further time as the chairman of the tribunal may for good cause allow.

*Time and place of hearings before the tribunal*

**6.**—(1) As soon as may be reasonably practicable after the giving of a notice of appeal under rule 5, the tribunal shall hold an oral hearing.

(2) Reasonable notice of the time and place of an oral hearing and copies of documents supplied to the tribunal for the purpose of the appeal shall be given to the following persons—

(*a*) the person who has brought the appeal;

(*b*) the benefit or supplement officer, as the case may be, against whose determination the appeal is brought;

(*c*) where the appeal has been brought under paragraph (*a*) or (*b*) of rule 5, any other person—

(i) whose right to receive benefit may be directly affected by the appeal, or

(ii) who may appear to the chairman of the tribunal to be interested,

and, except with the consent of the interested persons, the tribunal shall not proceed with the hearing of the appeal unless such notice has been given.

(3) If any interested person fails to appear either in person or by representative at the hearing the tribunal may proceed to consider and determine the case notwithstanding his absence or may give such directions with a view to its consideration and determination as, having regard to all the circumstances including any explanation offered for the absence, they may think proper.

(4) A person may be directly affected for the purpose of paragraph (2)(*c*)(i)—

(*a*) where the appeal is brought under rule 5(*a*), if he is one of a man and a woman who are members of the same family for the purposes of the 1971 Act, the other of whom is the person who brought the appeal;

(*b*) where the appeal is brought under rule 5(*b*), if he is claiming supplementary benefit, is aged not less than 16 and his resources and requirements are for the purposes of the 1977 Order aggregated with and treated as those of the person who brought the appeal.

*Hearings before the tribunal*

**7.**—(1) Subject to the provisions of these rules, the procedure in connection with the consideration and determination of any matter by the tribunal shall be such as the chairman of the tribunal shall determine.

(2) Any matter may, if all interested persons consent, be proceeded with in the absence of any one member of the tribunal other than the chairman.

(3) Where an oral hearing is adjourned and at the hearing after the adjournment the tribunal is differently constituted, otherwise than through the operation on that occasion of paragraph (2), the proceedings at that hearing shall be by way of a complete re-hearing of the appeal.

(4) Subject to the following provisions of this rule, no member of the public shall be permitted to be present at any sitting of the tribunal.

(**k**) S.I. 1976/1043 (N.I. 16)