1980 No. 349

SUPPLEMENTARY BENEFITS

The Supplementary Benefit (Transitional) Regulations (Northern Ireland) 1980

Made . . . . . *10th October 1980*

Coming into operation . . . *10th November 1980*

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The Department of Health and Social Services, in exercise of the powers conferred on it by Article 9(1) of the Social Security (Northern Ireland) Order 1980(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Supplementary Benefit (Transitional) Regulations (Northern Ireland) 1980 and shall come into operation on 10th November 1980.

(2) In these regulations—

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

"the 1980 Order" means the Social Security (Northern Ireland) Order 1980;

"the 1977 Order as amended by the 1980 Order" means the 1977 Order as it will be amended after the coming into operation of Article 7(1), (2) and (3) of, and Schedule 2 to, the 1980 Order(c);

(a) S.I. 1980/870 (N.I. 8)
(b) S.I. 1977/2156 (N.I. 27)
(c) Provisions of the 1977 Order, as amended by the 1980 Order, are set out in Part II of Schedule 2 to the 1980 Order

"benefit week" has the meaning assigned to it in regulations made pursuant to Article 4 of the 1977 Order and Article 19(2)(*f*) of the 1977 Order as amended by the 1980 Order (days on which entitlement to supplementary pension or allowance is to begin or end or the amount thereof is to change);

"book of serial orders" means a book containing a series of orders for the payment of sums on account of benefit;

"calendar week" means a period of seven days beginning with midnight between a Sunday and a Monday;

"claimant" means a claimant to supplementary benefit;

"Commission" means the Supplementary Benefits Commission for Northern Ireland;

"the Department" means the Department of Health and Social Services.

Determinations before 24th November 1980 in respect of periods beginning on or after that date

2.—(1) Where any question relating to a claimant's entitlement to supplementary pension or allowance in respect of a period beginning on or after 24th November 1980 falls to be determined before that date, determination of that question shall be subject to the following paragraphs.

(2) Any such question which, if it had fallen to be determined on or after 24th November 1980, would fall to be determined by a benefit officer pursuant to the 1977 Order as amended by the 1980 Order, shall be determined by the Commission pursuant to that Order as so amended.

(3) Where before the coming into operation of these regulations a notice of determination or a book of serial orders has been issued which is or which contains any order in respect of a period beginning on or after 24th November 1980, for the purposes of any review or appeal the determination in respect of which that notice is given or order is made shall be deemed to have been made by the Commission pursuant to the 1977 Order as amended by the 1980 Order on the date on which these regulations come into force.

(4) Where by virtue of a determination by the Commission to which this regulation applies the amount of any supplementary pension or allowance to which a claimant would, but for this paragraph, be entitled, is less than 10 pence, that amount shall not be payable unless the claimant is also entitled to payment of any benefit under the Social Security (Northern Ireland) Acts 1975(**d**) which is paid weekly and, under arrangements made by the Department, supplementary pension or allowance is payable together with such a benefit.

(5) Article 20 of the 1977 Order (appeals) shall apply to a determination to which paragraph (2) or (3) applies as if the determination had been made under that Order.

(6) Where, by virtue of the preceding paragraph, a claimant has a right of appeal against a determination to an Appeal Tribunal, rule 5(2) of the Supplementary Benefit (Appeal Tribunal) Rules (Northern Ireland) 1971(**e**) (notice of appeal and time of hearing) shall be modified in his case so that—

(*a*) 21 days notice of appeal shall not be required provided that notice is given before 22nd December 1980;

(*b*) no hearing of such an appeal shall be held until on or after 24th November 1980.

Determinations on or after 24th November 1980 in respect of periods before that date

3.—(1) This regulation shall apply to any question relating to a claimant's entitlement to supplementary benefit in respect of a period before 24th November

(**d**) See Article 1(2) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15))

(**e**) S.R. & O. (N.I.) 1971 No. 162 (p. 769)

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

(2) Any such question which, if it had fallen to be determined before 24th November 1980, would have fallen to be determined by the Commission, shall be determined by a benefit officer as if it had fallen to be determined before that date.

(3) Article 20 of the 1977 Order as amended by the 1980 Order (appeals) shall apply to a determination to which paragraph (2) applies as if that determination had been made under that Order as so amended.

Reviews of and appeals against determinations by the Commission

4.—(1) This regulation applies to any determination by the Commission which is either—

(*a*) in respect of a period before 24th November 1980;

(*b*) in respect of a period beginning on or after that date.

(2) Where, pursuant to regulations made under Article 19(2)(*d*) of the 1977 Order as amended by the 1980 Order (review of determinations), a determination with respect to supplementary benefit falls to be reviewed, a benefit officer may review that determination notwithstanding that it was made by the Commission.

(3) Any appeal which, under Article 20 of the 1977 Order (appeals), could have been brought against such a determination to an Appeal Tribunal may be brought to that Tribunal and in any such proceedings a benefit officer shall be a party instead of the Commission.

(4) In any proceedings in respect of an appeal which, under the said Article 20, has been brought against such a determination to an Appeal Tribunal before 24th November 1980, but has not been heard before that date, a benefit officer shall, on or after that date, be a party instead of the Commission.

Requirement to register

5. Any condition imposed by the Commission under Article 7 of the 1977 Order (requirement to register for employment) shall be treated as a condition imposed under Article 7 of the 1977 Order as amended by the 1980 Order.

Payments to third parties

6. Any determination by the Commission under Article 19(3) of the 1977 Order (supplementary benefit to be issued to a person other than the claimant) shall be treated as a determination to which regulations made pursuant to Article 19(2)(i) of the 1977 Order as amended by the 1980 Order (payment of supplementary benefit to another person on behalf of the claimant) apply.

Directions to attend courses of instruction or training

7.—(1) Any direction which is given by an Appeal Tribunal before 24th November 1980 under Article 14(1) of the 1977 Order (modification of right to supplementary allowance in special cases) and which has not expired shall on or after that date be deemed to be a direction to which Article 14(4) of the 1977 Order as amended by the 1980 Order (disentitlement to supplementary allowance during failure to comply with a direction) applies.

(2) Where before 24th November 1980 any report has, under paragraph (1) of Article 14 of the 1977 Order, been made by the Commission to, but not disposed of by, the Appeal Tribunal, the provisions of the said Article shall apply in respect of that report on or after that date as they would have applied before that date, save that as if for the reference in that paragraph to the Commission there were substituted a reference to the benefit officer, and any direction made in respect of that report shall be deemed to be a direction to which Article 14(4) of the 1977 Order as amended by the 1980 Order applies.

(3) Article 14(2) of the 1977 Order (revocation on change of circumstances) shall apply to any direction to which paragraph (1) or (2) of this regulation applies as if for the reference in that Article to the Commission there were substituted a reference to the benefit officer.

Recovery of expenditure on supplementary benefit

8.—(1) Any proceedings for the recovery of a sum which could have been taken by the Commission under the 1977 Order may, on or after 24th November 1980, be taken by the Department.

(2) Where before 24th November 1980 any question has, under paragraph (2) of Article 25 of the 1977 Order (questions as to amount of supplementary benefit recoverable), been referred to but not decided by the Appeal Tribunal, the provisions of the said paragraph and of paragraph (3) of the said Article 25 (certificate of the decision of the Appeal Tribunal) shall apply to that question on or after that date as they would have applied before that date.

Proceedings to which the Commission is a party

9. In any proceedings pending on 24th November 1980 before a court or tribunal (other than an Appeal Tribunal) the Department shall be substituted as a party for the Commission.

Amounts payable where benefit reduced after 24th November 1980

10.—(1) Where a claimant is entitled to supplementary pension or allowance in the benefit week beginning in the calendar week beginning 17th November 1980 (''the first benefit week'') and in the benefit week beginning in the calendar week beginning 24th November 1980 (''the second benefit week'') his total benefit income is less than the total benefit income payable to or in respect of him in the first benefit week, there shall be payable to him a weekly additional amount of supplementary pension or allowance (''an addition'') calculated in accordance with paragraph (4) for the period mentioned in that paragraph.

(2) Where—

(*a*) the last benefit week beginning before 24th November 1980 in respect of which a claimant is entitled to supplementary pension or allowance (''the first benefit week'') is separated from the next benefit week in respect of which he claims such pension or allowance, being a benefit week beginning on or after that date (''the second benefit week'') by a period of 13 weeks or less; and

(*b*) in the second benefit week his total benefit income is less than the total benefit income payable to or in respect of him in the first benefit week,

he shall be entitled to an addition calculated in accordance with paragraph (4) for the period mentioned in that paragraph.

(3) If any reduction in the amount of total benefit income payable to the claimant in the second benefit week by comparison with the first benefit week is attributable to a change of circumstances, the application of this regulation shall be by reference to the amount of total benefit income which would have been payable in the first benefit week if that change of circumstances had fallen to be taken into account in that week.

(4) An addition shall be—

(*a*) such sum as will maintain the claimant's total benefit income at an amount equal to the amount of total benefit income payable to or in respect of him in the first benefit week; and

(*b*) payable to him in respect of the second benefit week and any benefit week thereafter which falls within the same period of entitlement.

(5) Where in any benefit week following the second benefit week there is any increase in the claimant's total benefit income which is attributable to a change of