STATUTORY INSTRUMENTS

1980 No. 1586

SOCIAL SECURITY

The Supplementary Benefit (Conditions of Entitlement) Regulations 1980

Made - - - -	21*st October* 1980
Laid before Parliament	24*th October* 1980
Coming into Operation	24*th November* 1980

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The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 1 (1A), 5, 6 and 10 of the Supplementary Benefits Act 1976(a) and all other powers enabling him in that behalf, hereby makes the following regulations:—

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

Citation and commencement

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

Interpretation

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

"the Act" means the Supplementary Benefits Act 1976;

"allowance" means a supplementary allowance under section 1(1)(*b*) of the Act;

"assessment unit" means the claimant and any partner and dependant of the claimant;

"benefit week" has the meaning assigned to it in regulations made pursuant to section 14(2) (*f*) of the Act (days on which entitlement to pension or allowance is to begin or end or amount thereof is to change);

"claimant" means a claimant for supplementary benefit;

"close relative" means a spouse, partner, parent, child, step-parent, step-child, brother or sister;

"dependant" means a person whose requirements and resources are, by virtue of paragraph 3(2) of Schedule 1 to the Act, aggregated with and treated as those of the claimant;

"local education authority" means, in relation to Scotland, an education authority as defined in section 135(1) of the Education (Scotland) Act 1980(**a**);

"partner" means one of a married or unmarried couple;

"pension" means a supplementary pension under section 1(1) (*a*) of the Act;

"relevant education" has the meaning assigned to it in section 6(3) of the Act and, in the case of a person aged 19 or over, means education which would, if he were aged less than 19, be relevant education;

"self-employed person" means a person engaged in any work otherwise than under a contract of service;

"the Social Security Act" means the Social Security Act 1975(**b**);

"student" means a person under pensionable age who has left school and is attending a course of full-time education, other than periods when he is not attending his course and is not engaged on a programme of studies;

"training allowance" means an allowance (whether by way of periodical grants or otherwise) payable out of public funds by a Government department or by or on behalf of the Manpower Services Commission to a person for his maintenance, or in respect of any dependant of his, for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the said Commission; but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education or is training as a teacher;

(**a**) 1980 c. 44. (**b**) 1975 c. 14.

"unemployment benefit office" means any office or place appointed by the Secretary of State for the purposes of claiming unemployment benefit.

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

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

(*b*) a numbered regulation is to the regulation in these regulations bearing that number and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

Persons abroad whose entitlement is to continue

3.—(1) Where a claimant for a pension, or a claimant for an allowance who satisfies the condition in paragraph (2), is temporarily absent from Great Britain and—

(*a*) in the period immediately preceding the commencement of that absence was entitled to a pension or, as the case may be, allowance; and

(*b*) would, but for his absence, be entitled to such pension or allowance,

his entitlement to that pension or allowance shall continue during his absence from Great Britain for a period not exceeding the end of the fourth benefit week which falls during that absence.

(2) The condition mentioned in paragraph (1) is that in the period mentioned in paragraph (1)(*a*) he was not required to register for employment—

(*a*) by virtue of regulation 6(*c*) (incapacity for work) and the Secretary of State has certified that it is consistent with the proper administration of the Act that, subject to the satisfaction of one of the conditions in heads (i) and (ii) below, paragraph (1) should apply, and either—

(i) the absence is for the specific purpose of being treated for incapacity which commenced before he left Great Britain, or

(ii) on the day on which the absence began he was, and had for the past 6 months continuously been, incapable of work or incapable of working within the meaning of regulation 6(*c*) and continues to be so incapable on each day of his absence to which paragraph (1) applies; or

(*b*) by virtue of any other paragraph of regulation 6 (other than paragraph (*o*), (*p*) or (*q*)), and that paragraph continues to apply to him on each day of his absence to which paragraph (1) applies.

Meaning of employment for the purposes of section 5

4. For the purposes of section 5 (requirement to register and be available for employment) "employment" means work in employed earner's employment within the meaning of the Social Security Act—

(*a*) which the claimant can reasonably be expected to do;

(*b*) for which payment is made; and

(*c*) for which he would normally be engaged for not less than 30 hours a week or, if he is mentally or physically disabled, such lesser number of hours as, having regard to his disability, he is usually capable of working.

Manner of registration

5. A claimant to whom section 5 applies shall, except where the Secretary of State decides otherwise, be registered for employment by registering with the Manpower Services Commission or a local education authority.

Persons not subject to condition of registration and availability for employment

6. A claimant shall not be required to register and to be available for employment under section 5 in any week in which one or more of the following paragraphs applies:—

(*a*) he is not a partner and has a dependant who is a child provided that, where he is fostering that child, he began to foster that child at least 6 months before the week in which the claimant would, but for this paragraph, have been required to register;

(*b*) he is regularly and substantially engaged in caring for a severely disabled person and—

(i) either attendance allowance under the Social Security Act is payable in respect of that person or paragraph 9 of Schedule 3 to the Supplementary Benefit (Requirements) Regulations 1980(**a**) (attendance needs) applies in respect of that person or would apply to him if he made a claim for pension or allowance, and

(ii) there is no alternative means by which that person could be cared for,

except that, if in any case to which head (i) applies an alternative means of care is available, this paragraph shall apply but only for the period before alternative arrangements are made or for a period of 6 months, whichever is the shorter;

(*c*) by reason of some specific disease or bodily or mental disablement he is either incapable of work or is incapable of working for the number of hours which would apply in his case by virtue of regulation 4(*c*);

(*d*) he is so blind as to be unable to perform any work for which eyesight is essential and he has been unused to working outside his home in the 12 months immediately preceding the claim;

(*e*) by reason of physical or mental disablement he has no further prospect of employment and in the 12 months immediately preceding has—

(i) on average worked for less than 4 hours a week,

(ii) been registered and available for employment under section 5 for not less than 39 weeks,

(iii) made reasonable efforts to find employment and not refused any suitable employment,

and it is unlikely that there will be a vacancy for suitable employment for him in the locality in the near future;

(*f*) he has no prospect of future employment and lacks the training or experience to be able to enter or re-enter employment and—

(i) he is within 10 years of attaining pensionable age,

(ii) he has not been in employment in the 10 years immediately preceding the claim, and

(iii) during that period the requirement in section 5 has not applied and would not have applied to him had a claim been made for an allowance by or in respect of him;

(*g*) she is pregnant and either she is incapable of work by reason of that pregnancy or she has reached a stage in her pregnancy which is either—

(**a**) S.I. 1980/1299.

(i) not more than 11 weeks before the expected week of confinement, or

(ii) more than 11 weeks but less than 15 weeks before the expected week of confinement, and the benefit officer is satisfied that there is no vacancy in a suitable employment;

(*h*) he is a student and—

(i) he is one of an unmarried couple, and

(ii) his partner is not a student and either is unable to work for any reason specified in paragraph (*c*) or (*g*) or has a dependant;

(*i*) he is a member of the household of a close relative and is caring for a child of that relative because the parent who usually looks after the child is absent or ill;

(*j*) he is in receipt of a training allowance;

(*k*) he is a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(**a**) as extended by Article (1)2 of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(**b**) and—

(i) he is attending for more than 15 hours a week a course for the purpose of learning English so that he may obtain employment, and

(ii) on the day on which that course commenced he had been in Great Britain for not more than 12 months,

so however that this paragraph shall apply only for a period not exceeding 6 months, except that where a period of further tuition in English is necessary for the purpose of obtaining employment it may apply for a further period not exceeding 3 months;

(*l*) he is in receipt of an allowance made under the Job Release Act 1977(**c**);

(*m*) he is a person required to attend a court for any period exceeding 2 days as a justice of the peace or as party to any proceedings, witness or juror;

(*n*) he is following an Open University course and is attending, as a requirement for that course, a residential course;

(*o*) he is a person—

(i) who has been discharged from prison or other detention in legal custody or detention pursuant to any provision of the Mental Health Act 1959(**d**) or the Mental Health (Scotland) Act 1960(**e**), but

(ii) to whom no payment has been made under section 30 of the Prison Act 1952(**f**) (payments for discharged prisoners) nor allowance made under section 17 of the Prisons (Scotland) Act 1952(**g**) (allowances to prisoners on discharge),

and in the opinion of the benefit officer it would be unreasonable to require him to register for a period not exceeding 7 days from and including the day on which he first claims pension or allowance after his discharge;

(**a**) Cmd. 9171. (**b**) Cmnd. 3906. (**c**) 1977 c. 8.

(**d**) 1959 c. 72. (**e**) 1960 c. 61.

(**f**) 1952 c. 52; section 30 was substituted by section 66(3) of the Criminal Justice Act 1967 (c. 80).

(**g**) 1952 c. 61.

(*p*) he is a person to whom one of the following applies:—

(i) regulation 10(*a*) (first 15 days of employment),

(ii) regulation 12(*a*), (*c*) or (*d*) (person receiving relevant education who is a parent, or has no, or is estranged from his, parents or guardian), but only during his term-time,

(iii) regulation 12(*b*) (person receiving relevant education who is severely handicapped),

(iv) section 8 (person affected by trade dispute),

(v) section 9 (person returning to full-time employment following a trade dispute);

(*q*) he is a person to whom Part II of the Supplementary Benefit (Urgent Cases) Regulations 1980 (emergency relief) applies;

(*r*) the preceding paragraphs do not apply to him, but the circumstances are analogous to any circumstances mentioned in one or more of those paragraphs and in the opinion of the benefit officer it would be unreasonable to require him to register for employment.

Circumstances in which persons are to be treated as available for employment

7.—(1) Subject to paragraph (2) and regulation 8, a claimant shall be treated as available for employment if he is available to be employed within the meaning of section 17(1)(*a*)(i) of the Social Security Act (available for employment for purposes of unemployment benefit) or regulations made under it.

(2) A claimant who is attending a part-time course of relevant education shall be treated as available for work if—

(*a*) the course is for less than 21 hours a week;

(*b*) the course may be terminated by the claimant at any time, and he is prepared to terminate it immediately a suitable vacancy becomes available to him;

(*c*) the claimant has not terminated an employment or a full-time course of education for the purpose of attending the course; and

(*d*) either he is aged less than 21 or, immediately preceding the commencement of the course, he was in receipt of an allowance, and had been registered and available for work for not less than 12 months pursuant to section 5.

Circumstances in which persons are not to be treated as available for employment

8.—(1) A claimant shall not be treated as available for employment if he is a person to whom one or more of the following sub-paragraphs applies:—

(*a*) he is a student;

(*b*) he is a share fisherman within the meaning of the Social Security (Mariners' Benefits) Regulations 1975(**a**) who is not entitled to unemployment benefit under the Social Security Act because he has failed to satisfy the additional condition for receipt of that benefit in paragraph (5) or (8) of regulation 8 of those regulations (that he performed no work as a sea-going or on-shore share fisherman and did not neglect to avail himself of a reasonable opportunity of employment as a fisherman);

(**a**) S.I. 1975/529.

(*c*) after a situation in any suitable employment has been properly notified to him as vacant or about to become vacant he has without good cause refused or failed to apply for that situation or refused to accept that situation when offered to him, and that situation is still vacant or open to application;

(*d*) he has failed to comply with a written notice given or sent to him by the Secretary of State requesting him to report to an officer of his or of the Manpower Services Commission at a time and place and on a day specified in the notice for an interview in connexion with his prospects of employment, and

(i) within 14 days of the date on which he failed to comply with the requirements of that notice, the Secretary of State gives or sends him a further notice directing him to report to such an officer at a time and place and on a day specified in that further notice in order that he may attend such an interview, and

(ii) he fails without good cause to comply with the requirements of that further notice;

(*e*) he has failed to avail himself of a reasonable opportunity of short-term work which is available in the area in which he lives, and—

(i) he is aged 18 or over but less than 45,

(ii) his partner, if any, is aged less than 45 and not pregnant,

(iii) he has no dependants,

(iv) in the opinion of the benefit officer, having regard to all the circumstances in his case, in particular to the health of himself and his partner if any, the refusal or withdrawal of allowance in consequence of a determination that he is not to be treated as available for employment would not be inappropriate.

(2) A determination that a claimant is not to be treated as available for employment—

(*a*) pursuant to paragraph (1)(*c*), shall apply for a period not exceeding—

(i) the period during which the situation in question remains vacant, and

(ii) in any case, 6 weeks;

(*b*) pursuant to paragraph (1)(*d*), shall apply on the day specified in the further notice and any subsequent day falling before the claimant reports to an officer of the Secretary of State or of the Manpower Services Commission at the place specified in the notice and there attends an interview in connexion with his prospects of employment;

(*c*) pursuant to paragraph (1)(*e*)—

(i) shall not apply until the claimant has been given 14 days' notice in writing and that period has expired, and then

(ii) shall apply for a period not exceeding 6 weeks.

(3) In this regulation—

(*a*) employment shall not be deemed to be employment suitable in the case of any claimant if it is employment to which section 20(4) of the Social Security Act (employment not to be deemed suitable for purposes of section 20 of that Act) applies;

(*b*) "properly notified" means notified by an officer acting on behalf of the Secretary of State, or by the Manpower Services Commission, a local education authority or some other recognised agency, or by or on behalf of an employer.

Circumstances in which persons are to be treated as engaged in remunerative full-time work

9.—(1) Subject to regulation 10, for the purposes of section 6(1) (exclusion from supplementary benefit of certain employed persons) a claimant shall be treated as engaged in remunerative full-time work only where—

(*a*) he is engaged to be employed in work for which payment is made or which is done in expectation of payment or for which, but for a recognised or customary holiday or an absence from work without good cause, payment would be made and for which he is normally engaged on average for not less than—

(i) in the case of a claimant who is mentally or physically disabled and whose earning capacity is by reason of that disablement reduced to 75 per cent. or less of what he would, but for that disablement, be reasonably expected to earn, 35 hours a week,

(ii) in any other case, 30 hours a week,

and his employment has not terminated;

(*b*) he is not engaged in remunerative full-time work within the meaning of sub-paragraph (*a*) but—

(i) he was so engaged in the period immediately preceding the first week in which he is not so engaged, and

(ii) he has received either final earnings in respect of the period immediately preceding that first week or earnings in advance in respect of that first week or subsequent period and those earnings in advance are not subject to immediate repayment;

(*c*) he is not engaged in remunerative full-time work within the meaning of sub-paragraph (*a*) but he was so engaged as a self-employed person in the period immediately preceding the first week in which he is not so engaged.

(2) A determination that a claimant is treated as engaged in remunerative full-time work—

(*a*) pursuant to paragraph (1)(*b*), shall apply for a period of the same duration as the period in respect of which final earnings are paid, beginning on the day on which they would normally have been received;

(*b*) pursuant to paragraph (1)(*c*), shall apply for a period of 14 days beginning on the first day on which he ceased to be so engaged.

(3) In this regulation—

(*a*) "earnings" means earnings which fall to be taken into account under Part III of the Supplementary Benefit (Resources) Regulations 1980(**a**), but excluding any earnings or any part of any earnings paid in kind;

(*b*) earnings in respect of part of a day shall be regarded as earnings in respect of a whole day;

(**a**) S.I. 1980/1300.

(*c*) where the period to which the final earnings apply is not identifiable, that period shall be estimated by reference to a five-day week on the basis of periodical earnings normally paid to him;

(*d*) where the claimant receives as part of his final earnings a payment of bonus or commission in respect of a period different from that covered by those final earnings, that payment shall be treated as final earnings in addition to any other final earnings, for a period estimated by reference to a five-day week on the basis of periodical earnings normally paid to him.

Circumstances in which persons are not to be treated as engaged in remunerative full-time work

10. For the purposes of section 6(1) a claimant who would, but for this regulation, be treated as being engaged in remunerative full-time work shall not be treated as so engaged—

(*a*) until the expiration of a period of 15 days from the beginning of the engagement except that—

(i) this paragraph shall not apply where the engagement immediately follows the termination of a previous engagement,

(ii) the period of 15 days shall be reduced, in a case to which regulation 9(1)(*b*) or (*c*) applies, by any part of the period applicable to that case under regulation 9(2) which has not expired at the beginning of the engagement;

(*b*) where he is so engaged as a self-employed person and his earning power is, by reason of disability, substantially reduced in comparison with that of other persons similarly occupied;

(*c*) where he is so engaged in minding children in the home and performs normal household duties;

(*d*) where he is so engaged on a scheme for which a training allowance is being paid;

(*e*) where he is a person to whom section 8(1) or (2) (persons affected by trade disputes) applies;

(*f*) where, if he were not so engaged, he would be a person to whom regulation 6(*c*) (incapacity for work) applies;

(*g*) for any week in which the number of hours for which he works is—

(i) substantially fewer than the number of hours for which he is normally engaged, and

(ii) less than the minimum number of hours appropriate to his case by virtue of regulation 9(1)(*a*)(i) or (ii);

(*h*) where he is not so engaged and he is a person entitled to a retirement pension under the Social Security Act, or who would be so entitled if he satisfied the contribution conditions.

Circumstances in which persons are to be treated as receiving relevant education

11. For the purposes of section 6(2) (persons under 19 receiving relevant education not to be entitled to supplementary benefit) a person shall be treated as receiving relevant education for any period during which child benefit is or

would, if a claim were made for it, be payable in respect of him under Part I of the Child Benefit Act 1975(a), or would, but for failure to satisfy conditions as to residence and presence pursuant to section 13(2) and (3) of that Act, be so payable.

Circumstances in which persons receiving relevant education are to be entitled to supplementary benefit

12. A claimant to whom regulation 11 applies whose resources are insufficient to meet his requirements shall be entitled to supplementary benefit if he is a person to whom one or more of the following paragraphs applies:—

(*a*) he is the parent of a child for whom he is responsible and who is a member of the same household;

(*b*) he is severely mentally or physically handicapped and by reason of that handicap would be unlikely, if he were available for employment and not receiving relevant education, to obtain employment within the next 12 months;

(*c*) he has no parent and there is no person acting in the place of his parent;

(*d*) he is living away from and is estranged from his parents or a person acting in the place of his parents.

Directions to attend courses of instruction or training

13.—(1) This regulation shall apply for the purposes of any direction made by a benefit officer under section 10(1) (directions to attend courses of instruction or training in respect of persons who refuse or neglect to maintain themselves or their dependants), in this regulation referred to as "the direction".

(2) Any direction shall be made by a benefit officer in the form set out in the Schedule to these regulations and shall be delivered or sent to the claimant to whom it is made.

(3) Where after the coming into force of the direction either—

(*a*) the claimant to whom it is made appeals in accordance with rules made pursuant to paragraph 9 of Schedule 4 to the Act (appeals to Appeal Tribunal) or section 15A (appeals to Commissioner); or

(*b*) pursuant to regulations made under section 14(2)(*d*) (review of determinations) the benefit officer reviews the direction,

and the direction is cancelled in consequence of that appeal or review, the claimant shall be entitled to an allowance for any period during which the direction was in force and in respect of which he would have been so entitled but for section 10(4) (disentitlement while failure to comply with direction).

Patrick Jenkin,
Secretary of State for Social Services.

21st October 1980.

(a) 1975 c. 61.

Regulation 13(2)

SCHEDULE

DIRECTION PURSUANT TO SECTION 10

1. It appears to me that you are refusing or neglecting to maintain yourself/your wife/husband/and/your dependant(s). In particular you have failed to obtain, start or retain a job. Your employment record has been put to you. You have been advised that a course of instruction/training might help you, but you have been unwilling to attend as a volunteer.

2. In accordance with section 10 of the Supplementary Benefits Act 1976, I hereby direct you to attend a course of instruction/training at.....

3. You will be given notice of the days on which you should attend. While attending the course you will be expected to co-operate with the staff administering the course and to perform the duties assigned to you as part of the course.

4. Once this direction is in force and you remain unemployed you will not be entitled to supplementary allowance unless you comply with it. If you are unavoidably unable to attend, e.g. because of sickness, job interview or valid domestic reasons, it is in your own interest to inform the Course Manager as soon as possible.

5. You have a right to appeal to an independent Appeal Tribunal against this direction. If you wish to appeal you should write to this office within a period of 28 days of the day on which this direction is sent to you.

6. This direction will not come into force until the end of that period or, if you appeal, until the appeal is withdrawn or this direction is confirmed by the Appeal Tribunal.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations contain provisions relating to the conditions upon which a person is to be entitled to supplementary benefit under the Supplementary Benefits Act 1976.

Regulations 1 and 2 relate to citation, commencement and definitions.

Regulation 3 provides that the entitlement to supplementary pension or allowance of claimants (other than those required to register for employment) who satisfy conditions shall continue during the first 4 weeks of temporary absence from Great Britain.

Regulation 4 defines the meaning of "employment" for the purposes of the conditions of registration and availability, and regulation 5 provides the manner in which that registration is to be made. Regulation 6 exempts from those conditions any claimant who is not capable of working, or prevented from working for example by caring for children or a severely disabled person or by attendance at a course, or who has very recently been discharged from prison, or who has been affected by a disaster. Regulation 7 provides that "available" for employment is to have the same meaning as in the Social Security Act 1975, except in so far as regulation 8 provides that certain students, foreign visitors, share fishermen and claimants who are voluntarily unemployed are to be treated as not available (when they are not entitled to supplementary allowance).

Regulation 9 provides that a claimant is to be treated as "engaged in remunerative full-time work" (when he is not entitled to supplementary benefit) if he is engaged to be employed in work for 30 hours a week (35 hours if disabled) and during certain periods immediately following termination of such work, except in so far as regulation 10 provides that a claimant is not so engaged for example during the first 15 days in that work or if he is self-employed and his earning power is substantially reduced by a disability.

Regulation 11 provides that a person under age 19 is to be treated as receiving relevant education (when, subject to regulation 12, he is not entitled to supplementary benefit) for any period for which child benefit, which is only payable for persons aged 16–18 who are receiving non-advanced education, is payable in respect of him. Regulation 12 provides that the exclusion from supplementary benefit of such a person will not apply if he is the parent of, and responsible for, a child, or if he is an orphan without a guardian or estranged from his parents or guardian or if he is not likely to get employment in the next year because of handicap.

Regulation 13 relates to cases in which claimants who refuse or neglect to maintain themselves or their dependants are directed to attend courses (and not entitled to supplementary allowance if they do not comply with the direction). The form of the direction is set out in the Schedule to the regulations.

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