STATUTORY INSTRUMENTS

1980 No. 1605

SOCIAL SECURITY

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

Made - - - -	23*rd October* 1980
Laid before Parliament	30*th October* 1980
Coming into Operation	24*th November* 1980

ARRANGEMENT OF RULES

PART I

GENERAL

1. Citation, commencement and interpretation
2. Revocations and transitory provisions
3. Travelling and other allowances for persons attending oral hearings

PART II

APPEALS TO A TRIBUNAL

4. Time and manner of bringing appeals
5. Time and place of hearings before the tribunal
6. Hearings before the tribunal
7. Determinations of the tribunal

PART III

APPEALS TO A COMMISSIONER

8. Right of appeal to Commissioner from decision of tribunal on point of law
9. Applications for leave to appeal and appeals to Commissioner
10. Hearings before the Commissioner
11. Decisions of the Commissioner

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 15A and 28 of, and paragraph 9 of Schedule 4 to, the Supplementary Benefits Act 1976(a), and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals in so far as is

(a) 1976 c. 71; section 15A was inserted into that Act, and Schedule 4 was substituted, by the Social Security Act 1979 (c. 18) and section 15A was amended by the Social Security Act 1980 (c. 30).

required by section 10 of the Tribunals and Inquiries Act 1971(a), hereby makes the following rules:—

PART I

GENERAL

Citation, commencement and interpretation

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

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

"the 1976 Act" means the Supplementary Benefits Act 1976:

"the 1970 Act" means the Family Income Supplements Act 1970(b);

"benefit officer" means a person appointed in pursuance of section 27(2) of the 1976 Act:

"Commissioner" has the same meaning as in the Social Security Act 1975(c):

"interested person" means—

(*a*) in relation to Part II of these rules (appeals to a tribunal) any person mentioned in rule 5(2):

(*b*) in relation to Part III of these rules (appeals to a Commissioner), any person to whom, under rule 10(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 1970 Act(d);

"tribunal" means a tribunal constituted in accordance with section 28 of the 1976 Act.

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

(4) 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 4 or 9(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 1970 Act, any such notice or document shall, unless in any case or class of cases the Secretary of State 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.

(5) 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 1971(e) and the Supplementary Benefit (Appeal Tribunal) Rules 1971(f) are hereby revoked.

(a) 1971 c. 62. (b) 1970 c. 55. (c) 1975 c. 14.
(d) Section 1(1A) was inserted into the 1970 Act by the Social Security Act 1980
(e) S.I. 1971/622. (f) S.I. 1971/680.

(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 1976 Act as unamended—

(*a*) (subject to regulation 4 of the Family Income Supplements (Transitional) Regulations 1980**(a)** and regulation 4 of the Supplementary Benefit (Transitional) Regulations 1980**(b)** (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 5(2);

(*b*) in relation to a question arising, otherwise than by way of appeal, under the 1976 Act 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 1976 Act as unamended the parties to the proceedings for the purposes of rule 8(2) shall (subject to regulation 9 of the Supplementary Benefit (Transitional) Regulations 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 1976 Act as unamended are to that Act immediately before the coming into force of the amendments made by section 6(1) of, and Part I of Schedule 2 to, the Social Security Act 1980**(c)**.

Travelling and other allowances for persons attending oral hearings

3. The Secretary of State 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

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

(*a*) of a supplement officer under the 1970 Act;

(*b*) of a benefit officer under the 1976 Act, including a direction given pursuant to section 10(1) of that Act (modification of right to supplementary allowance in certain cases of refusal or neglect to maintain) and a determination made under section 20 of that Act (recovery under supplementary benefit and national assistance legislation in cases of misrepresentation or non-disclosure);

(*c*) of a benefit officer under regulations made pursuant to section 132(2) of the Employment Protection (Consolidation) Act 1978**(d)** (recoupment of supplementary benefit),

shall be brought by giving notice of the appeal in writing at an office of the Department of Health and Social Security, for transmission to the tribunal,

(a) S.I. 1980/1023. **(b)** S.I. 1980/984. **(c)** 1980 c. 30.
(d) 1978 c. 44.

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

5.—(1) As soon as may be reasonably practicable after the giving of a notice of appeal under rule 4, 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 4, 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 4(*a*), if he is one of a man and a woman who are members of the same family for the purposes of the 1970 Act, the other of whom is the person who brought the appeal;

(*b*) where the appeal is brought under rule 4(*b*), if he is claiming supplementary benefit, is aged not less than 16 and his resources and requirements are for the purposes of the 1976 Act aggregated with and treated as those of the person who brought the appeal.

Hearings before the tribunal

6.—(1) Subject to the provisions of these rules, the procedure in connexion 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.

(5) An interested person, and a person who under paragraph (6) represents an interested person, shall be entitled to be present during an oral hearing, to be

heard, to call persons to give evidence, to put questions directly to any other interested person who is present or to his representative and to any other person who gives evidence and to address the tribunal.

(6) An interested person shall be entitled to be accompanied and to be represented (whether by a person having professional qualifications or not) at an oral hearing.

(7) The chairman of the tribunal may allow a person other than an interested person or person accompanying or representing him to be present at an oral hearing if satisfied that he is a person who is genuinely engaged in research connected with appeals to tribunals or has other good and sufficient reasons for being present at an oral hearing, but any person who is allowed to be present by virtue of this paragraph—

(*a*) shall not make public any information he obtains while present at any oral hearing in such a way as is likely to enable interested persons to be identified by members of the public;

(*b*) shall take no part in the proceedings and may at any time be required by the tribunal to withdraw from the oral hearing.

(8) The clerk of the tribunal (or a person acting in his place) shall be present at all oral hearings.

(9) A person who is—

(*a*) a member of the Council on Tribunals or of the Scottish Committee of the Council; or

(*b*) a Senior Chairman appointed under paragraph 11 of Schedule 4 to the 1976 Act,

may be present at any sitting of the tribunal in his capacity as such (but shall take no part in the proceedings or in the deliberations of the tribunal).

(10) For the purpose of arriving at their decision, the tribunal shall order all persons (not being members of the tribunal), other than any person mentioned in paragraph (9), to withdraw from the sitting of the tribunal except that the continued presence of the clerk and of any person mentioned in paragraph (7) shall be within the discretion of the chairman.

Determinations of the tribunal

7.—(1) The determination on any matter of a majority of the tribunal shall be the determination of the tribunal.

(2) The tribunal shall—

(*a*) record every determination in writing; and

(*b*) include in every such record a statement of the reasons for their determination and of their findings on material questions of fact; and

(*c*) if a determination is not unanimous, record a statement that one of the members dissented and the reasons given by him for dissenting.

(3) As soon as may be practicable after the tribunal make their determination a copy of the record of the determination, made in accordance with this rule, shall be given to each interested person and to any other person who appears to the tribunal to be interested and the person who brought the appeal shall be informed of the conditions governing appeals to a Commissioner.

PART III
APPEALS TO A COMMISSIONER

Right of appeal to Commissioner from decision of tribunal on point of law

8.—(1) Subject to paragraph (3), any person who is a party to proceedings before a tribunal may appeal to a Commissioner, with the leave of a Commissioner, against any decision of the tribunal given in those proceedings on the ground that the decision is erroneous in point of law.

(2) For the purposes of paragraph (1) the parties to the proceedings before the tribunal are the person who brought the appeal to the tribunal and the benefit or supplement officer against whose determination the appeal was brought.

(3) Paragraph (1) shall not apply to any decision of a tribunal which is recorded in writing before 24th November 1980.

Applications for leave to appeal and appeals to Commissioner

9.—(1) An application for leave to appeal to a Commissioner from a decision of a tribunal on the ground that the decision is erroneous in point of law shall be made in writing within 3 months from the date on which the decision of the tribunal was sent in accordance with rule 7(3) to the person applying for leave or within such further time as the Commissioner may for special reasons allow.

(2) Subject to rule 10(7), an appeal against the decision of a tribunal shall be brought within 3 months from the date on which the decision giving leave to appeal was sent in accordance with rule 11(1) to the person to whom leave was given or within such further time as a Commissioner may for special reasons allow.

(3) An application for leave and an appeal shall include a statement of the point of law in respect of which the decision of the tribunal is alleged to be erroneous and shall be made or brought by giving or sending it to an office of the Department of Health and Social Security for transmission to a Commissioner.

(4) Where an application for leave is made or an appeal is brought by a benefit or supplement officer, a copy of the application or, as the case may be, of the notice of appeal shall be sent to any other person who, for the purpose of rule 8, was a party to the proceedings before the tribunal.

(5) The Secretary of State shall cause to be sent to the Commissioner—

(*a*) in respect of an application, a copy of the record (made in pursuance of rule 7(2)) of the decision under appeal;

(*b*) in respect of an appeal, a copy of such record and of the notice of appeal.

(6) Where a person, other than a benefit or supplement officer, purports to bring an appeal to the High Court or Court of Session against a decision of a tribunal which is recorded in writing after 23rd November 1980, notwithstanding that by virtue of the Tribunals and Inquiries (Supplementary Benefit Appeal Tribunals) (Revocation) Order 1980**(a)** he may no longer bring such an appeal, the Commissioner may treat the appeal as an application for leave made pursuant to paragraph (1).

(a) S.I. 1980/1601.

Hearings before the Commissioner

10.—(1) There shall be an oral hearing of an application for leave to appeal or of an appeal—

(*a*) if the person making the application or bringing the appeal so requests unless after considering the documents in the case and the reasons put forward in the request the Commissioner is satisfied that the application or appeal can properly be determined without an oral hearing (in which case written notice shall be given to the person who made the request); or

(*b*) if, notwithstanding that no such request has been made, the Commissioner is satisfied that an oral hearing is desirable.

(2) Where—

(*a*) there is no oral hearing, the Commissioner shall proceed to determine the application or appeal;

(*b*) there is an oral hearing, reasonable notice of the time and place of the hearing shall be given to the persons who, for the purposes of rule 8, were parties to the proceedings before the tribunal and, if the Commissioner thinks fit, to any other person appearing to him to be interested.

(3) An oral hearing shall be held in public except in so far as the Commissioner may otherwise direct, whether at the request of an interested person or otherwise, if he is of the opinion that intimate personal or financial circumstances may have to be disclosed or that considerations of public security are involved.

(4) A member of the Council on Tribunals or the Scottish Committee of the Council may be present at an oral hearing before a Commissioner in his capacity as such, notwithstanding that the hearing is not in public.

(5) An interested person shall have the right to be present and to be heard if an oral hearing is held by the Commissioner and may be represented, whether by a person with professional qualifications or otherwise.

(6) If any interested person fails to appear either in person or by representative at the hearing, the Commissioner may proceed to determine the application or appeal notwithstanding the absence of such person or may give such directions as he thinks proper with a view to its determination.

(7) Where a Commissioner upon consideration of an application for leave gives leave to appeal he may, with the consent of all interested persons, proceed to determine any question of law arising on the application for leave as though it arose on the appeal and as though the application were an appeal.

(8) On an appeal from a decision of a tribunal the Commissioner may—

(*a*) refer the case to another tribunal with directions for its determination; or

(*b*) hold that the decision is not erroneous in point of law.

(9) Subject to the provisions of this Part of these rules, the procedure in connexion with the consideration and determination of any application or appeal shall be such as the Commissioner may determine.

Decisions of the Commissioner

11.—(1) The decision of the Commissioner on an application for leave to appeal shall be recorded in writing and signed by him, and a copy of the decision shall be sent as soon as may be practicable to all interested persons.

(2) The decision of the Commissioner on any question of law arising on an appeal shall be in writing and signed by him, and he shall record the reasons for his decision and as soon as is practicable a signed copy of the decision and reasons shall be sent to the chairman of the tribunal whose decision was the subject of the appeal and copies of them shall be sent to the interested persons and, if the Commissioner thinks fit, to any other person appearing to him to be interested.

Patrick Jenkin,
Secretary of State for Social Services.

23rd October 1980.

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules govern the procedure of appeal tribunals constituted under Schedule 4 to the Supplementary Benefits Act 1976 (as substituted by the Social Security Act 1979), provide for a right of appeal on a point of law from the tribunals to a Social Security Commissioner and for the procedure before the Commissioner. In relation to the procedure of tribunals the Rules replace the Supplementary Benefit (Appeal Tribunal) Rules 1971 and the Family Income Supplements (Appeal Tribunal) Rules 1971 (in this respect, the changes are minor or technical or consequential on the amendments to the Family Income Supplements Act 1970 and the Supplementary Benefits Act 1976 made by the Social Security Act 1980). The provisions relating to the Social Security Commissioners coincide with the ending, by the Tribunal and Inquiries (Supplementary Benefits Appeal Tribunals) (Revocation) Order 1980, of the right of appeal from the tribunals to the High Court or Court of Session.

Part I contains general provisions relating to citation, commencement and interpretation (rule 1), to revocations and transitory matters (rule 2) and to travelling and other allowances for persons attending oral hearings (rule 3). Part II relates to appeals to tribunals and provides for the time and manner of bringing appeals (rule 4), for the time and place of tribunal hearings (rule 5), for tribunal hearings (rule 6) and for tribunal determinations (rule 7). Part III relates to appeals to a Social Security Commissioner, and provides for a right of appeal to a Commissioner from decisions of a tribunal on a point of law (rule 8), for applications for leave to appeal and for appeals to a Commissioner (rule 9), for hearings before the Commissioner (rule 10) and for decisions of the Commissioner (rule 11).

SI 1980/1605
ISBN 0-11-007605-2

