

1982 No. 30

SUPPLEMENTARY BENEFIT AND FAMILY INCOME SUPPLEMENTS

The Supplementary Benefit and Family Income Supplements
(Appeals) (Amendment) Rules (Northern Ireland) 1982

Made 1st February 1982

Coming into operation 8th March 1982

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 of all other powers enabling it in that behalf, hereby makes the following rules:

Citation, commencement and interpretation

1.—(1) These rules may be cited as the Supplementary Benefit and Family Income Supplements (Appeals) (Amendment) Rules (Northern Ireland) 1982 and shall come into operation on 8th March 1982.

(2) In these rules “the principal rules” means the Supplementary Benefit and Family Income Supplements (Appeals) Rules (Northern Ireland) 1980(b).

Insertion of rule 5A in the principal rules

2. After rule 5 of the principal rules (time and manner of bringing appeals) there shall be inserted the following rule—

“Withdrawal of appeals to tribunals

5A.—(1) A person who has given notice of appeal in accordance with rule 5 may withdraw his appeal—

- (a) by giving written notice of intention to withdraw to the tribunal before the date fixed for the hearing of the appeal, if the benefit officer, or where he is a party to the appeal, the supplement officer, gives his written consent to such withdrawal before the hearing begins, or
- (b) by request made to the chairman of the tribunal for leave to withdraw, if the chairman at a hearing of the tribunal gives leave to withdraw.

(2) A notice of intention to withdraw an appeal, or a declaration made by or on behalf of the appellant of his desire to withdraw an appeal, may be treated as a request for leave within paragraph (1)(b).”

Amendment of rule 6 of the principal rules

3. In rule 6 of the principal rules (time and place of hearings before the tribunal)—

- (a) in paragraph (2) after “Reasonable notice” there shall be inserted “(being not less than 10 days beginning with the day on which the notice is given and ending on the day before the hearing of the case is to take place)”;
- (b) in paragraph (3) for “proceed to consider and determine” there shall be substituted “proceed with”.

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

(b) S.R. 1980 No. 381

Amendment of rule 7 of the principal rules

4. At the beginning of rule 7(10) of the principal rules (persons to be ordered to withdraw while the tribunal consider their decision) there shall be inserted "For the purpose of discussing any question of procedure, the tribunal may, and".

Insertion of rule 10A in the principal rules

5. After rule 10 of the principal rules (applications for leave to appeal and appeals to Commissioner) there shall be inserted the following rule—

"Time limits for making written observations

10A.—(1) This rule applies to proceedings before a Commissioner by way of—

- (a) an application to him for leave to appeal against a decision of a tribunal,
- (b) an appeal to him against such a decision.

(2) If a person (other than the applicant for leave, or the appellant) who was a party to the proceedings before the tribunal wishes to submit observations in writing on the application or on the notice of appeal, as the case may be, he shall submit such observations to the Commissioner within 28 days of the notice of the said application or appeal having been given to him or within such further time as the Commissioner may for special reasons allow.

(3) Where written observations are submitted pursuant to paragraph (2), a person (not being the person who submitted those observations) who was a party to the proceedings before the tribunal may submit to the Commissioner comments in writing on those observations within 28 days of notice of them having been given to him or within such further time as the Commissioner may for special reasons allow.

(4) Where the Commissioner gives any direction concerning a case to which this rule applies and invites comments in writing on that direction, any person who was a party to the proceedings before the tribunal shall, if he wishes to make such comments, submit them to the Commissioner within 28 days of notice of the said direction having been given to him or within such further time as the Commissioner may for special reasons allow."

Amendment of rule 11 of the principal rules

6. In rule 11 of the principal rules (hearings before the Commissioner)—

(a) in paragraph (5) for "proceed to determine" there shall be substituted "proceed with";

(b) in paragraph (7) for sub-paragraph (a) there shall be substituted—

"(a) hold that the decision is erroneous in point of law and—

- (i) if he is satisfied that it is expedient in the circumstances, give the decision the tribunal should have given, or
- (ii) refer the case to another tribunal with directions for its determination; or"

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 1st February 1982.

(L.S.)

John M. Steele

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Rules.)

These rules amend provisions of the Supplementary Benefit and Family Income Supplements (Appeals) Rules (Northern Ireland) 1980 ("the principal rules") concerning adjudication procedure under the Supplementary Benefit (Northern Ireland) Order 1977 ("the Order").

Rule 2 inserts rule 5A in the principal rules allowing withdrawal of appeals to appeal tribunals constituted under the Order if unopposed or by leave of the chairman: Rule 3 amends rule 6 of the principal rules to provide that the reasonable notice that must be given of the time and place of a hearing by one of those tribunals is not less than 10 days. Rule 4 amends rule 7 of the principal rules so that a tribunal may order persons to withdraw while any question of procedure is discussed. Rule 5 inserts rule 10A in the principal rules limiting the time within which written observations may be submitted to a Commissioner in an appeal to him from such a tribunal or in relation to an application to him for leave so to appeal. Rule 6 enables the Commissioner, where he holds that a tribunal decision appealed against is erroneous in law, either to give the decision it should have given, or remit the case to another tribunal.