STATUTORY INSTRUMENTS

1982 No. 40

SOCIAL SECURITY

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

Made - - - -	15*th January* 1982
Laid before Parliament	25*th January* 1982
Coming into Operation	15*th February* 1982

The Secretary of State for Social Services, in exercise of the powers conferred 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, after consultation with the Council of Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(**b**), 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 1982 and shall come into operation on 15th February 1982.

(2) In these rules, "the principal rules" means the Supplementary Benefit and Family Income Supplements (Appeals) Rules 1980(**c**).

Insertion of new rule 4A *in the principal rules*

2. After rule 4 of the principal rules (appeals to supplementary benefit appeal tribunals) there is inserted the following rule:—

"*Withdrawal of appeals to tribunals*

4A.—(1) A person who has given notice of appeal in accordance with rule 4 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*)."

(**a**) 1976 c. 71; section 15A, inserted by the Social Security Act 1979 (c. 18), was amended by the Social Security Act 1980 (c. 30), section 6(1) and Schedule 2; Schedule 4 was substituted by the Social Security Act 1979, section 6(2) and Schedule 2.

(**b**) 1971 c. 62. (**c**) S.I. 1980/1605.

Amendment of rule 5 of the principal rules

3. The following amendments are made to rule 5 of the principal rules (time and place of hearings before the tribunal)—

(*a*) in paragraph (2) after "reasonable notice" there is 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)"

and the words of sub-paragraph (*c*) from "and, except with the consent" to the end are taken out of that sub-paragraph but remain at the end of paragraph (2).

(*b*) in paragraph (3) for "proceed to consider and determine" there is substituted "proceed with".

Amendment of rule 6 of the principal rules

4. At the beginning of rule 6(10) of the principal rules (persons to be ordered to withdraw while the tribunal consider their decision) there is inserted "For the purpose of discussing any question of procedure, the tribunal may, and".

Insertion of new rule 9A in the principal rules

5. After rule 9 of the principal rules (applications for leave to appeal and appeals to a Commissioner) there is inserted the following rule:—

"*Time limits for making written observations*

9A.—(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 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 10 *of the principal rules*

6.—(1) In rule 10(6) of the principal rules (hearings before the Commissioner), for "proceed to determine" there is substituted "proceed with".

(2) In rule 10(8) of those rules (decisions of the Commissioner), for subparagraph (*a*) there is substituted—

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

(i) if he is satisified 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".

Norman Fowler,
Secretary of State for Social Services.

15th January 1982.

EXPLANATORY NOTE

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

These Rules amend provisions of the Supplementary Benefit and Family Income Supplements (Appeals) Rules 1980 ("the principal rules") concerning adjudication procedure under the Supplementary Benefit Acts 1976.

Rule 2 inserts new rule 4A in the principal rules allowing withdrawal of appeals to appeal tribunals constituted under the Act if unopposed or by leave of the chairman. Rule 3 provides 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 empowers a tribunal to order persons to withdraw while questions of procedure are discussed. Rule 5 inserts new rule 9A in the principal rules limiting the time within which written observations may be submitted to a Social Security 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.

SI 1982/40
ISBN 0-11-026040-6

