STATUTORY INSTRUMENTS

1971 No. 680

SOCIAL SECURITY

The Supplementary Benefit (Appeal Tribunal) Rules 1971

Made - - -	21*st April* 1971
Laid before Parliament	30*th April* 1971
Coming into Operation	1*st July* 1971

The Secretary of State for Social Services, in exercise of his powers under paragraph 6 of Schedule 3 to the Ministry of Social Security Act 1966(**a**), and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals, hereby makes the following rules :—

Citation, commencement and interpretation

1.—(1) These rules may be cited as the Supplementary Benefit (Appeal Tribunal) Rules 1971 and shall come into operation on 1st July 1971.

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

"the Act" means the Ministry of Social Security Act 1966(**a**) ;

"the Assistance Act" means the National Assistance Act 1948(**b**) ;

"Appeal Tribunal" means an Appeal Tribunal constituted in accordance with the provisions of Schedule 3 to the Act ;

"the appellant" means a person or local authority who has brought an appeal under the Act, or under any other enactment, excepting the Family Income Supplements Act 1970(**c**), conferring powers on Appeal Tribunals ;

"the chairman" means the chairman or acting chairman of the Appeal Tribunal ;

"the clerk" means the clerk to the Appeal Tribunal or his deputy ;

"the Commission" means the Supplementary Benefits Commission ;

"interested persons" means the appellant or the person concerned and the Commission, or in the case of a reference under section 26 of the Act or in connection with proceedings taken by the Secretary of State under paragraph 7 of Schedule 7 to the Act, the Secretary of State, or in the case of a reference under paragraph 3 of Schedule 4 to the Act, the local authority, and references to an interested person shall be construed accordingly;

"the person concerned" means, as the case may require—

(*a*) a person in respect of whom a report has been made by the Commission to an Appeal Tribunal under section 12 of the Act ;

(**a**) 1966 c. 20. (**b**) 1948 c. 29.
(**c**) 1970 c. 55.

(*b*) a person in respect of whom a direction of the Commission or a local authority has been referred to an Appeal Tribunal under paragraph 3 of Schedule 4 to the Act ; or

(*c*) where any question has arisen as to whether any or what amount paid by way of benefit, or assistance under the Assistance Act, is recoverable by the Secretary of State from any person under section 26 of the Act, or by virtue of proceedings taken by the Secretary of State under paragraph 7 of Schedule 7 to the Act, respectively, that person ;

and other expressions have the same meanings as in the Act.

(3) References in these rules to any enactment, rule or regulation shall, except in so far as the context otherwise requires, include references to such enactment, rule or regulation, as amended or extended by or under any subsequent enactment, rule, order or regulation and as including references to any enactment, rule or regulation thereby consolidated.

(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 at his ordinary or last known address.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**a**) shall apply in relation to these rules (including any rules read as one therewith) as they apply for the purposes of the interpretation of an Act of Parliament.

Tenure of office of members of Appeal Tribunals

2. The chairman and the other members of an Appeal Tribunal shall hold office in accordance with the terms of their respective letters of appointment.

Revocation, transitional provisions and extent

3.—(1) The Supplementary Benefit (Appeal Tribunals) Rules 1966(**b**) are hereby revoked.

(2) Anything whatsoever done under or by virtue of any rules revoked by these rules shall be deemed to have been done under or by virtue of the corresponding provisions of these rules, and anything whatsoever begun under any such revoked rules may be continued under these rules as if begun under these rules.

(3) So much of any document as refers expressly or by implication to any rules revoked by these rules shall, if and so far as the context permits, be construed as referring to the corresponding provisions of these rules.

(4) Nothing in paragraph (2) or (3) of this rule shall be taken as affecting the general application, by rule 1(5) of these rules, of the rules contained in section 38 of the Interpretation Act 1889 (effect of repeal).

(5) The following provisions of these rules shall not apply to appeals brought by virtue of the provisions of the Family Income Supplements Act 1970(**c**).

(**a**) 1889 c. 63.
(**b**) S.I. 1966/1066 (1966 II, p. 2618).
(**c**) 1970 c. 55.

Procedure on reports made by the Commission under section 12 *of the Act*

4.—(1) Where the Commission have made a report to an Appeal Tribunal under section 12 of the Act (modification of right to supplementary allowance in special cases) the Appeal Tribunal shall, as soon as may be, hold an oral hearing.

(2) A representation under section 12(5) of the Act that a direction of an Appeal Tribunal ought to be revoked shall be made in writing and shall be given or sent to the clerk to the Appeal Tribunal that gave the direction, and that Tribunal shall, as soon as may be, hold an oral hearing.

Time and manner of bringing appeals

5.—(1) An appeal against a determination or award made by the Commission, or against a decision refusing to review a determination or award, shall be brought by giving notice of the appeal in writing at an office of the Department of Health and Social Security.

(2) Except in the case of an appeal by a local authority under section 25 of the Assistance Act (appeal against requirement of Commission to local authority to provide accommodation in urgent cases), such notice of appeal shall be given within twenty-one days of the notification of that determination, award or decision, or within such further time as the chairman may for good cause allow, and the Appeal Tribunal shall, as soon as may be, hold an oral hearing.

Procedure on references to Appeal Tribunals under section 26 *of the Act*

6. Any question arising as to whether any or what amount paid by way of benefit is recoverable by the Secretary of State under section 26(1) of the Act (recovery in cases of misrepresentation or non-disclosure) shall be referred by the Secretary of State to an Appeal Tribunal by notice in writing, and the Appeal Tribunal shall, as soon as may be, hold an oral hearing.

Procedure on a reference on recovery of national assistance

7. Any question arising as to whether any or what amount paid by way of assistance under the Assistance Act is recoverable by the Secretary of State under paragraph 7(1) of Schedule 7 to the Act (proceedings for recovery of a sum that, but for the passing of the Act, would have been recoverable under the Assistance Act) shall be referred by the Secretary of State to an Appeal Tribunal by notice in writing, and the Appeal Tribunal shall, as soon as may be, hold an oral hearing.

Procedure on reference under paragraph 3 *of Schedule* 4 *to the Act*

8. A requirement that a direction given by the Commission or a local authority under paragraph 3(2) of Schedule 4 to the Act (accommodation in reception centres in special cases) be referred to an Appeal Tribunal, shall be made by the person concerned giving notice of the said requirement in writing to the Commission or the local authority as the case may require, and the Appeal Tribunal shall, as soon as may be, hold an oral hearing.

Time and place of hearings before the Appeal Tribunal

9.—(1) Reasonable notice of the time and place of an oral hearing, together with copies of documents supplied to the Appeal Tribunal for the purposes of the appeal, reference or report, shall be given to the interested persons by the clerk, and, except with consent of the interested persons, the Appeal Tribunal shall not proceed with the hearing of an appeal, reference or report unless such notice has been given.

(2) If any interested person to whom notice of an oral hearing has been duly given in accordance with the foregoing provisions of this rule should fail to appear at such hearing, the Appeal Tribunal may proceed to consider and determine the matter notwithstanding the absence of that interested person, or may give such directions with a view to the consideration and determination of the matter as, having regard to all the circumstances including any explanation offered for the absence, they may think proper.

Procedure in absence of a member of the Appeal Tribunal and at an adjourned hearing

10.—(1) Any matter may, unless an interested person objects, be proceeded with in the absence of any one member of the Appeal Tribunal other than the Chairman.

(2) Subject to paragraph (1) of this rule, where a hearing before the Appeal Tribunal is adjourned and at the adjourned hearing the Appeal Tribunal is differently constituted, the proceedings at the adjourned hearing shall be by way of a complete re-hearing of the appeal, reference or report.

Hearings before the Appeal Tribunal

11.—(1) The clerk shall be present at all sittings of the Appeal Tribunal.

(2) An interested person shall be entitled to be present during an oral hearing, to be heard, to call persons to give evidence and to put questions directly to any other interested person who is present and to any person who gives evidence.

(3) An interested person who attends an oral hearing shall be entitled to be accompanied by not more than two persons either or both of whom (whether having professional qualifications or not) may represent that interested person at such hearing and an interested person who does not attend an oral hearing shall be entitled to be represented by not more than two persons (whether having professional qualifications or not) at such hearing, but, except with the consent of the Appeal Tribunal—

(*a*) an interested person who attends an oral hearing may be accompanied by no more than two persons (whether attending as representatives of the interested person they accompany or otherwise) ; and

(*b*) an interested person who does not attend an oral hearing may be represented by no more than two persons.

(4) A person representing an interested person at an oral hearing shall have all the rights of an interested person referred to in paragraph (2) of this rule.

(5) The Appeal Tribunal may permit to attend an oral hearing a person (not being a child) whose requirements and resources are, were or may be aggregated, under paragraph 3 of Schedule 2 to the Act, with those of an interested person.

(6) Subject to paragraph (7) of this rule, the chairman may allow not more than two persons (other than interested persons or persons accompanying or representing interested persons) to be present at any oral hearing if he is satisfied that they are persons who are genuinely engaged in research connected with appeals to Appeal Tribunals or have other good and sufficient reasons for being present at an oral hearing before the Appeal Tribunal and if—

(*a*) such persons have given the clerk reasonable notice in writing of their desire to be present and of their reasons for desiring to be present ;

(*b*) such persons have given the clerk a written undertaking not to make public any information they obtain while present at any oral hearing in such a way as is likely to enable interested persons (other than the Commission) to be identified by members of the public ; and

(*c*) the interested persons at any oral hearing who are present, who shall be informed of the desire of such persons to be present and of their reasons for desiring to be present before any hearing commences, do not object.

(7) Any persons who are allowed to be present at any oral hearing by virtue of the provisions of paragraph (6) of this rule shall take no part in the proceedings and may at any time be required by the Appeal Tribunal to withdraw from the hearing.

(8) For the purpose of discussing their determination on any matter, the Appeal Tribunal may order any person to withdraw.

(9) Nothing in this rule shall prevent a member of the Council on Tribunals or of the Scottish Committee of the Council from being present at an oral hearing in his capacity as such ; but, subject to the foregoing provisions of this paragraph and to the provisions of the foregoing paragraphs of this rule, no member of the public shall be permitted to be present at any oral hearing of the Appeal Tribunal.

(10) Subject to the provisions of these rules, the procedure in connection with the consideration and determination of any matter by the Appeal Tribunal shall be such as the chairman shall determine.

Determinations of the Appeal Tribunal

12.—(1) The Appeal Tribunal shall record every determination and provide a statement of the reasons therefor in writing and the determination on any matter of the majority of the Appeal Tribunal shall be the determination of the Appeal Tribunal.

(2) As soon as practicable after the Appeal Tribunal give their determination copies of the determination and of the statement of the reasons, made in accordance with paragraph (1) of this rule, shall be sent to the interested persons by the clerk.

Travelling and other allowances for persons attending before the Appeal Tribunal

13.—(1) 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 the Appeal Tribunal to an interested person, to a person representing or accompanying an interested person, to a person called to give evidence and to a person permitted to attend under rule 11(5) of these rules.

(2) Any person desiring to claim an allowance as aforesaid shall forthwith submit a claim to the Secretary of State whose decision thereon shall be final.

Keith Joseph,
Secretary of State for Social Services.

21st April 1971.

EXPLANATORY NOTE

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

These Rules, which supersede the Supplementary Benefit (Appeal Tribunals) Rules 1966, provide for the appointment of members of, and the procedure of, Appeal Tribunals (hereinafter called "Tribunals") constituted under Schedule 3 to the Ministry of Social Security Act 1966. Rules 4 to 13 do not apply to appeals under the Family Income Supplements Act 1970 for which purpose separate Rules come into operation on 3rd May 1971.

Rule 1 is formal. Rule 2 relates to tenure of office of members of Tribunals. Rule 3 revokes the 1966 Rules, makes transitional provisions and excludes family income supplement appeals. Rules 4 to 8 relate to the procedure for bringing matters before Tribunals; except for rule 7 which relates to recovery of national assistance and is new, they are similar to corresponding provisions of the revoked Rules. Rule 9 relates to notices of hearings and the procedure when notice is not duly given or a person is absent from the hearing. Rule 10 provides for the procedure when a Tribunal member is absent and when a differently constituted Tribunal sits at an adjourned hearing. Rule 11, which relates to hearings before the Tribunals, differs considerably from the corresponding rule 10 of the revoked Rules; a new provision, paragraph (6) of the rule, enables Tribunal chairmen, subject to specified conditions, to allow in their discretion certain persons engaged in research to attend hearings. Rule 12 requires Tribunal determinations to be recorded and provides for their notification to interested persons; it differs from the corresponding rule 11 of the revoked Rules in requiring reasons to be given in writing with every determination. Rule 13 provides for payment of travelling and other allowances to certain persons attending Tribunal hearings.

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