STATUTORY INSTRUMENTS

1980 No. 1580

SOCIAL SECURITY

The Supplementary Benefit (Duplication and Overpayment) Regulations 1980

Made - - - -	*20th October* 1980
Laid before Parliament	*24th October* 1980
Coming into Operation	*24th November* 1980

The Secretary of State for Social Services, in exercise of the powers conferred on him by sections12(1),(1A) and (2) and 20(4) of the Supplementary Benefits Act 1976(a) and section 84 of the Social Security Act 1975(b), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Supplementary Benefit (Duplication and Overpayment) 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;

"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 supplementary pension or allowance are to begin or end or the amount thereof is to change);

"child benefit" means benefit under Part I of the Child Benefit Act 1975(c);

"Deductions Regulations" means the Supplementary Benefit (Deductions and Payments to Third Parties) Regulations 1980(d);

"Social Security Act" means the Social Security Act 1975;

"Tax Act" means the Income and Corporation Taxes Act 1970(e);

"war disablement pension" means—

(*a*) a pension or other benefit awarded—

(i) in respect of disablement due to service in the armed forces of the Crown being a pension or other benefit within the meaning of section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(f); or, as the case may be,

(ii) under the Personal Injuries (Emergency Provisions) Act 1939(g), the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(h) or the Polish Resettlement Act 1947(i);

(a) 1976 c. 71; the Act as amended (other than sections 31, 32, 35 and 36 and Schedules 4 and 6 to 8) is set out in Part II of Schedule 2 to the Social Security Act 1980 (c.30).
(b) 1975 c. 14. (c) 1975 c. 61. (d) S.I. 1980/983.
(e) 1970 c. 10. (f) 1977 c. 5. (g) 1939 c. 82.
(h) 1939 c. 83. (i) 1947 c. 19.

(*b*) any retired pay or pension to which section 365(1) of the Tax Act applies, not being a pension or other benefit to which sub-paragraph (*a*) of this definition applies;

(*c*) any payment which the Secretary of State accepts as analogous to any award mentioned in the preceding sub-paragraphs of this definition,

but in any case shall exclude any gratuity;

"war widow's pension" means a pension or other benefit awarded to a widow under—

(*a*) any of the powers referred to in section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977; or

(*b*) any of the enactments mentioned in sub-paragraph (*a*)(ii) of the definition of "war disablement pension";

(*c*) any scheme mentioned in section 365(2)(*e*) of the Tax Act;

(*d*) any payment which the Secretary of State accepts as analogous to any award mentioned in the preceding sub-paragraphs of this definition,

but in any case shall exclude any gratuity.

(2) Unless the context otherwise requires, any reference in these regulations to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

Prevention of duplication of payments—abatement or receipt

3.—(1) A prescribed payment for the purposes of section 12(1) of the Act (prevention of duplication of payments from public funds and under the law of another member State) is a payment of any of the following:—

(*a*) any benefit under the Social Security Act (**a**) other than any grant or gratuity;

(*b*) any child benefit;

(*c*) any allowance under a scheme made under section 2 or 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975(**b**);

(*d*) any family income supplement under the Family Income Supplements Act 1970(**c**);

(*e*) any war disablement pension or war widow's pension;

(*f*) any allowance paid under the Job Release Act 1977(**d**);

(*g*) any allowance payable by or on behalf of the Manpower Services Commission to or in respect of a person for his maintenance for any period during which he is following a course of training or instruction provided or approved by that Commission;

(*h*) any payment of benefit under the legislation of any member State other than the United Kingdom concerning the branches of social security mentioned in Article 4(1) of Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons and their

(**a**) *See also* section 66(2) of the Social Security Pensions Act 1975 (c.60).
(**b**) 1975 c. 16. (**c**) 1970 c. 55. (**d**) 1977 c. 8.

families moving within the Community (a), whether or not the benefit has been acquired by virtue of the provisions of that Regulation.

(2) The prescribed date, in relation to a payment of the kind mentioned in sub-paragraphs (*a*) to (*h*) of paragraph (1), is the date by which receipt of or entitlement to that payment would have to be notified to the Secretary of State if it were to be taken into account in determining, whether on review or otherwise, the amount of or entitlement to supplementary pension or allowance.

Prevention of duplication of payments—recovery

4.—(1) Prescribed income of a person for the purposes of section 12(1A) of the Act (prevention of duplication of payments of prescribed income) consists of resources which fall to be taken into account in the calculation of his income resources in accordance with Part III of the Supplementary Benefit (Resources) Regulations 1980(b).

(2) The prescribed date in relation to any payment of income prescribed by paragraph (1) is—

(*a*) where it is made in respect of a specific day or period, that day or the first day of that period;

(*b*) where it is not so made, the day or the first day of the period to which it is fairly attributable.

Prevention of duplication of payments—maintenance payments

5. The prescribed benefits for the purposes of section 12(2) of the Act (prevention of duplication of maintenance payments) are—

(*a*) child benefit;

(*b*) increases for dependants of any benefit under the Social Security Act;

(*c*) child's special allowance under section 31 of the Social Security Act;

(*d*) guardian's allowance under section 38 of the Social Security Act; and

(*e*) death benefit by way of an allowance under section 70 of the Social Security Act.

Recovery in cases of misrepresentation or non-disclosure

6. The prescribed benefits for the purposes of section 20(4) of the Act (recovery in cases of misrepresentation or non-disclosure) are—

(*a*) any benefit under the Social Security Act except maternity or death grant, but including any graduated retirement benefit;

(*b*) any other payment mentioned in sub-paragraphs (*c*), (*d*) and (*h*) of regulation 3(1);

(*c*) subject to regulation 7, supplementary pension or allowance.

Application of regulation 6 to supplementary pension or allowance

7.—(1) Regulation 6 shall apply to supplementary pension or allowance only to the extent that there may, subject to regulation 3 of the Deductions Regulations (regular payments to third parties for housing and fuel requirements), be recovered in respect of any one benefit week—

(*a*) in a case to which paragraph (2) applies, not more than the amount there specified; and

(a) O.J. No. L149, 5.7.1971; for a codified text *see* O.J. No. C.138, 9.6.1980.
(b) S.I. 1980/1300.

(*b*) in any other case, the amount mentioned in regulation 3(4)(*d*) of the Deductions Regulations (maximum weekly amount payable to third party).

(2) Where—

(*a*) the person to whom the supplementary pension or allowance is payable is a person to whom—

(i) paragraph 1(*a*) of the table in paragraph 2(3) of Schedule 1 to the Act (normal requirements for person over pensionable age who has a partner) applies,

(ii) paragraph 3(*a*) of that table (normal requirements for householders over pensionable age) applies,

(iii) regulation 7 of the Supplementary Benefit (Requirements) Regulations 1980(**a**) (long-term rates for normal requirements in prescribed cases) applies,

(iv) paragraph 1(*a*) of Schedule 1 to those regulations (normal requirements of person aged not less than 18 other than relevant person or householder) applies; or

(v) regulation 9(8)(*a*)(i) or (*b*)(i) of those regulations (long-term rates for normal requirements of boarders) applies; or

(*b*) the person responsible for the misrepresentation of or failure to disclose a material fact has, by reason thereof, been found guilty of an offence under section 21 of the Act or under any other enactment, or has made a written statement after caution in accordance with the Judges' Rules or, in Scotland, has made such a statement duly witnessed by 2, persons in admission of deception or fraud for the purpose of obtaining supplementary benefit,

the amount mentioned in paragraph (1)(*a*) shall be one-sixth of the sum specified for the time being in section 6(1)(*a*) of the Social Security Pensions Act 1975 (that one-sixth being, where it is not a multiple of 10 pence, rounded to the nearest such multiple or, if it is a multiple of 5 pence but not of 10 pence, the next higher multiple of 10 pence.

(3) Where in the calculation of the resources of the person to whom the supplementary pension or allowance is payable the amount of earnings or other income falling to be taken into account is reduced by regulation 10(5) or 11(5) of the Supplementary Benefit (Resources) Regulations (partial disregard of earnings or other income respectively) the weekly amount applicable under paragraph (1) may be increased by not more than half the amount of the reduction, and any increase under this paragraph has priority over any increase which would, but for this paragraph, be made under regulation 3(4)(*b*) of the Deductions Regulations (increase of maximum amount of payments to third parties).

(4) Regulation 6 shall not be applied to supplementary pension or allowance so as to reduce that pension or allowance in any one week—

(*a*) in a case in which the person to whom that pension or allowance is payable is also entitled to payment of any benefit under the Social Security Act together with which, under arrangements made by the Secretary of State either throughout or in any part of Great Britain, supplementary pension or allowance is paid, to less than 5 pence;

(*b*) in any other case, to less than 10 pence.

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

Amendment of the Social Security Benefit (Dependency) Regulations 1977

8. In regulation 4 of the Social Security Benefit (Dependency) Regulations 1977(**a**) (deeming benefit under the Act abated under section 12(2) of the Act to be a contribution for the maintenance of dependants) for the words "any benefit mentioned in section 12(1)(*a*)" there shall be substituted the words "any benefit prescribed pursuant to section 12(2)".

Patrick Jenkin,
Secretary of State for Social Services

20th October 1980.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations contain provisions relating to the prevention of duplication of payments under section 12 of the Supplementary Benefits Act 1976 and recovery in cases of misrepresentation or non-disclosure under section 20 of that Act. Section 12(1), (1A) and (2) provides that a prescribed payment, income or benefit may be abated or, as the case may be, recovered where because it is paid late supplementary benefit has been overpaid. Section 20(4) provides that recovery may be made by deduction from prescribed benefits.

Regulation 3 prescribes for the purposes of section 12(1) the payments of income made from public funds in the United Kingdom and under the law of any other member State, and prescribes the date in relation to those payments. Regulation 4 prescribes the payments of income for the purposes of section 12(1A) and prescribes the date in relation to those payments. Regulation 5 prescribes the benefits for the purposes of section 12.

Regulation 6 prescribes the benefits for the purposes of section 20(4), and regulation 7 provides the circumstances in which that sub-section can apply to supplementary pension or allowance, including the maximum amount deductible and the minimum amount to be left in payment.

Regulation 8 amends the Social Security Benefit (Dependency) Regulations 1977 in consequence of the amendments to section 12(2) made by the Social Security Act 1980.

(**a**) S.I. 1977/343.

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