

1986 No. 341

SOCIAL SECURITY

The Social Security (Mobility Allowance) (Amendment) Regulations
(Northern Ireland) 1986

Made 19th November 1986

Coming into operation 19th November 1986

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 37A and 114(1) of the Social Security (Northern Ireland) Act 1975(a) and Articles 52(1)(b) to (e) and 84(1) of the Social Security (Northern Ireland) Order 1986(b) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and interpretation

1.—(1) These regulations may be cited as the Social Security (Mobility Allowance) (Amendment) Regulations (Northern Ireland) 1986.

(2) In these regulations “the principal regulations” means the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975(c).

(3) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of the principal regulations

2.—(1) The principal regulations shall be amended in accordance with the following paragraphs.

(2) In paragraph (2) of regulation 4 (entitlement to allowance in respect of weeks before that in which claim is received by the Department) for “3 months” there shall be substituted “6 months”.

(3) For regulation 5 (claim and award for period beginning after the date on which the claim is received) there shall be substituted—

“Claim and award for period beginning after the date the claim is received

5.—(1) Subject to paragraphs (2) and (3) a claim for an allowance may be made, or treated as made, for a period beginning on such date later than the date on which the claim is received, being a date not more than 3 months after the date on which it is so received as the Department may determine.

(2) In the case of a claim in respect of a child who will attain the age of 5 within the 3 month period, no date earlier than the date of his fifth birthday shall be treated as the date the claim is made.

(3) In the case of a claim for the renewal of an existing award of an allowance, the first day after the ending of the period of the existing award shall be treated as the date the claim is made.

(a) 1975 c. 15; section 37A was inserted by Article 24(1) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)), and amended by Article 4 of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)) and Article 72(1) to (3) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

(b) S.I. 1986/1888 (N.I. 18)

(c) S.R. 1975 No. 280; the relevant amending regulations are S.R. 1981 No. 407

(d) 1954 c. 33 (N.I.)

(4) Where, in accordance with the foregoing provisions of this regulation, a claim is made, or treated as made, for a period beginning after the date on which it is received—

- (a) the entitlement to an allowance of the person in respect of whom such claim is made shall be determined having regard to the physical disablement to which that person may be expected to be subject at the beginning of the period for which the claim is, or is treated as being, made; and
- (b) if it appears that the conditions for entitlement to an allowance will be satisfied from the beginning of such period, an allowance may be awarded, payable from that date, subject to the condition that, when the allowance becomes payable, the person in respect of whom such a claim is made satisfies the requirements for entitlement to an allowance for which provision is made in section 37A or in these regulations; and if at any time during the period for which such an award is made, any of those requirements are found not to have been satisfied, the award shall be reviewed.”

(4) In the heading to regulation 6 (claim received within 3 months after the end of a period for which allowance awarded) for “3 months” there shall be substituted “6 months”.

(5) In regulation 6 for “3 months” there shall be substituted “6 months”.

Amendment of the Social Security (Adjudication) Regulations (Northern Ireland) 1984

3.—(1) The Social Security (Adjudication) Regulations (Northern Ireland) 1984(a) shall be amended in accordance with the following paragraphs.

(2) In regulation 53(1) (reference of medical questions for report) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

- “(a) whether a person is suffering from physical disablement such that he is unable to walk or virtually unable to do so at the date the claim is received or treated as received or at any subsequent date up to the date the question is determined, and if so, what date;
- (b) whether such inability or virtual inability to walk is likely to persist for at least 12 months from the date found for the purposes of sub-paragraph (a);”

(3) The following regulations shall be inserted after regulation 53—

“Date for the determination of the medical questions

53A. In determining any medical question on a claim for mobility allowance, an adjudication officer, medical board or medical appeal tribunal shall have regard to the physical disablement of the person in respect of whom the claim is made at the date at which the claim is received or treated as received by the Department or, where those questions cannot be determined in that person’s favour as at that date, they shall decide whether those questions may be determined in his favour from any subsequent date up to the date the questions are determined.

Reconsideration of entitlement conditions for an allowance

53B. Where the medical questions with respect to a claim for mobility allowance are determined in favour of the person in respect of whom a claim for an allowance has been made, from a date later than the date the claim was received or

treated as received and the conditions of entitlement to an award are satisfied at that later date, the award shall be made payable from that date.”.

Transitional

4. Where a person, having claimed mobility allowance, has received payments by the Department to which Article 72(5) of the Social Security (Northern Ireland) Order 1986 applies (persons to be treated as entitled to mobility allowance) then—

- (a) that person shall be treated as having made a fresh claim for the allowance from 19th November 1986; and
- (b) the medical questions relating to that claim shall be determined by the adjudication officer having regard to the report of the medical appeal tribunal by which that person was last examined for the purposes of his previous claim.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 19th November 1986.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975 (“the principal regulations”) and the Social Security (Adjudication) Regulations (Northern Ireland) 1984 (“the Adjudication Regulations”). They correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

Section 37A of the Social Security (Northern Ireland) Act 1975 (“the Act”) and Articles 52(1)(b) to (e) and 84(1) of the Social Security (Northern Ireland) Order 1986 (“the 1986 Order”) are some of the enabling provisions under which these regulations are made. Article 72(1) to (3), which amends section 37A of the Act, and Article 52(1)(b) to (e) (so far as it relates to mobility allowance) of the 1986 Order are brought into operation on 19th November 1986 by the Social Security (1986 Order) (Commencement No. 1) Order (Northern Ireland) 1986 (S.R. 1986 No. 339 (C. 6)). Article 84(1) of the 1986 Order also comes into operation on 19th November 1986 by virtue of Article 1(7) of that Order.

Regulation 2(2) amends regulation 4 of the principal regulations so that where a claim for mobility allowance is made within 6 months of the ending of a previous award entitlement to a fresh award is to be determined from the date immediately following the date the previous award ended.

Regulation 2(3) substitutes a new regulation 5 for regulation 5 of the principal regulations, to provide that claims in respect of a child may be made up to 3 months before his fifth birthday to have effect on or after his birthday and that any claim for the renewal of an existing award may be made up to 3 months before that award

expires. Where an award is made for a later date than the date on which the claim is received by the Department, if the conditions of entitlement are not satisfied on that later date the award may be reviewed.

Regulation 2(4) amends regulation 6 of the principal regulations so that where a claim for an allowance is made within 6 months of the ending of a previous award, the claim shall be treated as being for the period beginning immediately after the previous award ended.

Regulation 3 amends regulation 53 of the Adjudication Regulations so that the medical questions relating to a person's inability to walk may be determined either at the date of his claim for mobility allowance or at a subsequent date. Two new regulations 53A and 53B are inserted. The former provides that the adjudicating authority in determining the medical questions relevant to a claimant's ability to walk, shall have regard to his physical disablement either at the date the claim is received or at any subsequent date up to and including the date on which the determination is made; and the latter provides that a person who satisfies the medical conditions at a date later than the date his claim is received, may be awarded an allowance from such later date, provided that the other conditions of entitlement are still satisfied.

Regulation 4 provides that where a person, who claimed mobility allowance, is treated as having been entitled to the allowance from a date later than the date of his claim and received payment of the allowance by the Department from that later date, he is to be treated as having made a fresh claim for the allowance from 19th November 1986 and his satisfaction of the medical conditions for an award is to be decided having regard to the report of the medical appeal tribunal by whom he was last examined on his earlier claim.