

1992 No. 481

SOCIAL SECURITY

The Social Security (Disability Living Allowance and Attendance Allowance) (Amendment) Regulations (Northern Ireland) 1992

Made 19th November 1992

Coming into operation 15th December 1992

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 67(2) and 72(8) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and section 71(1)(b) of the Social Security Administration (Northern Ireland) Act 1992(b) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Disability Living Allowance and Attendance Allowance) (Amendment) Regulations (Northern Ireland) 1992 and shall come into operation on 15th December 1992.

(2) In these regulations—

“the Attendance Allowance Regulations” means the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(c);

“the Disability Living Allowance Regulations” means the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(d).

Amendment of the Attendance Allowance Regulations

2.—(1) The Attendance Allowance Regulations shall be amended in accordance with paragraphs (2) and (3) of this regulation.

(2) In regulation 6 (hospitalisation)—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to regulation 8, it shall be a condition for the receipt of an attendance allowance for any period in respect of any person that during that period he is not maintained free of charge while undergoing medical or other treatment as an in-patient—

(a) in a hospital or similar institution under the Order or the 1991 Order; or

(a) 1992 c. 7

(b) 1992 c. 8

(c) S.R. 1992 No. 20; amended by S.R. 1992 No. 143

(d) S.R. 1992 No. 32; amended by S.R. 1992 No. 144

(b) in a hospital or similar institution maintained or administered by the Defence Council.”;

(b) in paragraph (2) for “paragraph (1)” there shall be substituted “paragraph (1)(a)”;

(c) paragraph (3) shall be omitted.

(3) In regulation 7(1) (persons in certain accommodation other than hospitals) for “paragraphs (2), (3) and (4)” there shall be substituted “paragraphs (2) and (3)”.

Amendment of the Disability Living Allowance Regulations

3.—(1) The Disability Living Allowance Regulations shall be amended in accordance with paragraphs (2) and (3) of this regulation.

(2) In regulation 8 (hospitalisation)—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to regulation 10, it shall be a condition for the receipt of disability living allowance which is attributable to entitlement to the care component for any period in respect of any person that during that period he is not maintained free of charge while undergoing medical or other treatment as an in-patient—

(a) in a hospital or similar institution under the Order or the 1991 Order; or

(b) in a hospital or similar institution maintained or administered by the Defence Council.”;

(b) in paragraph (2) for “paragraph (1)” there shall be substituted “paragraph (1)(a)”;

(c) paragraph (3) shall be omitted.

(3) In regulation 9 (persons in certain accommodation other than hospitals)—

(a) in paragraph (1) for “paragraphs (2) to (7)” there shall be substituted “paragraphs (1A) to (6)”;

(b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) Paragraph (1)(b) and (c) shall not apply in circumstances where the cost of the accommodation is, or may be, borne wholly or partly out of public or local funds by virtue of—

(a) Articles 50 and 51 of the Education and Libraries (Northern Ireland) Order 1986(a) (which relate respectively to the provisions of awards by education and library boards and by the Department of Education in relation to persons undergoing teacher training or postgraduate courses); or

(b) Article 3 of the Education (Student Loans) (Northern Ireland) Order 1990(b).”.

(a) S.I. 1986/594 (N.I. 3)

(b) S.I. 1990/1506 (N.I. 11)

Revocations

4. Regulation 2(2) of the Social Security (Disability Living Allowance) (Amendment) Regulations (Northern Ireland) 1992(a) is hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 19th November 1992.

(L.S.)

A. N. Burns

Assistant Secretary

(a) S.R. 1992 No. 144

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992 ("the Attendance Allowance Regulations") and the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 ("the Disability Living Allowance Regulations").

Regulations 2(2) and 3(2) respectively amend regulation 6 of the Attendance Allowance Regulations and regulation 8 of the Disability Living Allowance Regulations in order to reflect the ways in which treatment can now be provided under the health service.

Regulation 2(3) amends regulation 7 of the Attendance Allowance Regulations so as to limit the circumstances in which attendance allowance shall be paid to a person living in certain accommodation.

Regulation 3(3) amends regulation 9 of the Disability Living Allowance Regulations so as to permit a person, who is in receipt of a grant or loan from an education and library board or the Department of Education whilst undergoing certain types of further or higher education, to receive the care component of a disability living allowance if he otherwise meets the criteria for that allowance.

Regulation 4 contains a consequential revocation.

These regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.