

## 1992 No. 6

**SOCIAL SECURITY; HOUSING; RATES****The Disability Living Allowance and Disability Working Allowance (Consequential Provisions) Regulations (Northern Ireland) 1992**

*Made* . . . . . 10th January 1992

*Coming into operation in accordance with regulation 1*

The Department of Health and Social Services in exercise of the powers conferred on it by Article 13(1) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991(a) 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 Disability Living Allowance and Disability Working Allowance (Consequential Provisions) Regulations (Northern Ireland) 1992 and shall, subject to paragraph (2), come into operation on 6th April 1992.

(2) Regulation 10 shall come into operation in relation to a particular claimant at the beginning of the first benefit week to commence for that claimant on or after 6th April 1992; and for this purpose the expressions “claimant” and “benefit week” have the same meanings as in the Income Support (General) Regulations (Northern Ireland) 1987(b).

*Amendment of the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976*

2. In regulation 9(2)(b) of the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(c) (conditions relating to residence and presence in Northern Ireland) after “attendance allowance” there shall be inserted “or the care component of a disability living allowance at the highest or middle rate”.

*Amendment of the Social Security Pensions (Home Responsibilities and Miscellaneous Amendments) Regulations (Northern Ireland) 1978*

3. In regulation 2(3) of the Social Security Pensions (Home Responsibilities and Miscellaneous Amendments) Regulations (Northern Ireland) 1978(d) (preclusion from regular employment for the purposes of

(a) S.I. 1991/1712 (N.I. 17)

(b) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 Nos. 146 and 318, S.R. 1989 No. 139, S.R. 1990 No. 346 and S.R. 1991 No. 338

(c) S.R. 1976 No. 99, to which there are amendments not relevant to these regulations

(d) S.R. 1978 No. 102; relevant amending regulations are S.R. 1988 No. 125

paragraph 5(6) and (7) of Schedule 3 to the Act) for “other than in respect of a child under the age of 16” there shall be substituted “the care component of a disability living allowance at the highest or middle rate under section 37ZB of the Act(a)”.

*Amendment of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978*

4. For regulation 11 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(b) (modification of the Act in relation to mobility allowance) there shall be substituted the following regulation—

*“Modification of the Act in relation to disability living allowance*

11. A person shall not be disqualified for receiving disability living allowance by reason of being absent from Northern Ireland.”.

*Amendment of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979*

5.—(1) The Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(c) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 4(2)(g) (adjustment of personal benefit under Chapters I and II of Part II of the Act where other personal benefit under those Chapters is payable) for “mobility allowance” there shall be substituted “disability living allowance”.

(3) In regulation 6(3) (adjustments of personal benefit under Chapters I and II of Part II of the Act by reference to industrial injuries benefits and benefits not under the Act, and adjustments of industrial injuries benefits) for “, and to any benefit by reference to which it” there shall be substituted “or the care component of a disability living allowance and to any benefit by reference to which that allowance (as the case may be)”.

(4) In Schedule 1 (personal benefits which are required to be adjusted by reference to benefits not under Chapters I and II of Part II of the Act) in paragraph 5 of Column 1 after “Attendance allowance” there shall be added “or the care component of a disability living allowance”.

*Amendment of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979*

6. In regulation 4(1)(b)(i) of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(d) (days to be treated as days of increment) for “mobility allowance” there shall be substituted “disability living allowance”.

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(a) 1975 c. 15; section 37ZB was inserted by Article 3(2) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991

(b) S.R. 1978 No. 114, to which there are amendments not relevant to these regulations

(c) S.R. 1979 No. 242, to which there are amendments not relevant to these regulations

(d) S.R. 1979 No. 243, to which there are amendments not relevant to these regulations

*Amendment of the Social Security (General Benefit) Regulations (Northern Ireland) 1984*

7.—(1) The Social Security (General Benefit) Regulations (Northern Ireland) 1984(a) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) in the definition of “determining authority” after “97(2) to (2E)” there shall be inserted “, a disability appeal tribunal constituted under Schedule 10A(b)”.

(3) In regulation 2(2) (exceptions from disqualification for imprisonment, etc.) for “mobility allowance” there shall be substituted “attendance allowance, disability living allowance”.

*Amendment of the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984*

8. In regulation 10 of the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984(c) (adjudication)—

(a) in paragraph (1)(a) for “the period specified in a certificate issued in respect of him by the Attendance Allowance Board” there shall be substituted “a period when the person is or was entitled to attendance allowance”; and

(b) in paragraph (1)(b)(i) after “of the Act” there shall be inserted “or the mobility component of a disability living allowance at the higher rate under section 37ZC of the Act(d) or the care component of a disability living allowance at the highest or middle rate under section 37ZB of the Act”.

*Amendment of the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987*

9.—(1) The Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987(e) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 4(1)(a) (entitlement to a maternity payment) for “or family credit” there shall be substituted “, family credit or disability working allowance”.

(3) In regulation 5(b) (persons affected by a trade dispute) after “family credit” in each place where it occurs there shall be inserted “or disability working allowance”.

(4) In regulation 6(1)(a) (entitlement to a funeral payment) after “family credit” there shall be inserted “, disability working allowance”.

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- (a) S.R. 1984 No. 92; relevant amending regulations are S.R. 1984 Nos. 174 and 317 and S.R. 1986 No. 340  
 (b) Schedule 10A was inserted by paragraph 16 of Schedule I to the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991  
 (c) S.R. 1984 No. 317, to which there are amendments not relevant to these regulations  
 (d) Section 37ZC was inserted by Article 3(2) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991  
 (e) S.R. 1987 No. 150; relevant amending regulations are S.R. 1988 No. 22

*Amendment of the Income Support (General) Regulations (Northern Ireland) 1987*

**10.**—(1) The Income Support (General) Regulations (Northern Ireland) 1987 shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation) after the definition of “course of study” there shall be inserted the following definitions—

“ “disability living allowance” means a disability living allowance under section 37ZA of the principal Act(a);

“disability working allowance” means a disability working allowance under Article 21(6A) of the Order(b);”.

(3) In Schedule 1 (persons not required to be available for employment) in paragraph 4—

(a) in sub-paragraph (1)(a)(i) after “principal Act” there shall be inserted “or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the principal Act”;

(b) in sub-paragraph (1)(a)(ii) for “that section” there shall be substituted “section 35 of the principal Act”; and

(c) after sub-paragraph (1)(a)(ii) there shall be added—

“(iii) the person being cared for has claimed entitlement to a disability living allowance but only for the period up to the date of determination of that claim, or the period of 26 weeks from the date of that claim, whichever date is the earlier; or”.

(4) In Schedule 2 (applicable amounts)—

(a) in paragraph 7(2) after “attendance allowance” there shall be inserted “or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the principal Act”;

(b) in paragraph 12—

(i) in sub-paragraph (1)(a)(i) for “mobility allowance” there shall be substituted “disability living allowance, disability working allowance”, and

(ii) for sub-paragraph (1)(c) there shall be substituted—

“(c) the claimant or, as the case may be, his partner, was in receipt of either—

(i) invalidity pension under section 15 of the principal Act when entitlement to that benefit ceased on account of the payment of a retirement pension under the principal Act and the claimant has since remained continuously entitled to income support and, if the invalidity pension was payable to his partner, the partner is still alive, or

(a) Section 37ZA was inserted by Article 3(2) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991

(b) S.I. 1986/1888 (N.I. 18); Article 21(6A) was inserted by Article 8(4) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991

- (ii) except where paragraph 1(a), (b), (c)(ii) or (d)(ii) of Schedule 7 (patients) applies, attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 82(6)(b) of the principal Act,  
and, in either case, the higher pensioner premium or disability premium has been applicable to the claimant or his partner.”;
- (c) in paragraph 13 in sub-paragraphs (2)(a)(i), (2)(b)(i), (3)(a) and (3A)(a) after “attendance allowance” in each place where it occurs there shall be inserted “or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the principal Act”;
- (d) in paragraph 14(b) for “attendance allowance or mobility allowance or both” there shall be substituted “disability living allowance”; and
- (e) in paragraph 14ZA (2)(b) after “attendance allowance” there shall be inserted “or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the principal Act”.
- (5) In Schedule 4 (applicable amounts of persons in homes for persons in need and nursing homes) for paragraph 6(2)(b) there shall be substituted—  
“(b) he—  
(i) is in receipt of attendance allowance at the higher rate in accordance with section 35(3) of the principal Act(a) or the care component of a disability living allowance at the highest rate prescribed in accordance with section 37ZB(3) of the principal Act, or  
(ii) has made a claim for attendance allowance or disability living allowance and, in respect of that claim, a decision has been made that he satisfies the conditions for receipt of either attendance allowance at the higher rate in accordance with section 35(3) of the principal Act or the care component of a disability living allowance at the highest rate prescribed in accordance with section 37ZB(3) of the principal Act, but he has not yet completed the qualifying period for that benefit; or”.
- (6) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—  
(a) in paragraph 6 after “mobility allowance” there shall be added “or the mobility component of a disability living allowance”;
- (b) in paragraph 7(a) for “paragraph 6 or 9” there shall be substituted “paragraph 6, 9 or 9A”; and
- (c) after paragraph 9 there shall be inserted the following paragraph—

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(a) Section 35(3) was substituted by paragraph 2(2) of Schedule 2 to the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991

“9A. Any care component of a disability living allowance where the claimant does not live in a home for persons in need or a nursing home or where he lives in a home for persons in need or a nursing home and he is a person to whom Part II of Schedule 4 applies (persons to whom regulation 19 does not apply).”

(7) In Schedule 10 (capital to be disregarded) in paragraph 7(a) for “paragraph 6, 8 or 9” there shall be substituted “paragraph 6, 8, 9 or 9A”.

*Amendment of the Housing Benefit (General) Regulations (Northern Ireland) 1987*

**11.**—(1) The Housing Benefit (General) Regulations (Northern Ireland) 1987(a) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation) after the definition of “designated office” there shall be inserted the following definitions—

“ “disability living allowance” means a disability living allowance under section 37ZA of the principal Act;

“disability working allowance” means a disability working allowance under Article 21(6A) of the Order;”

(3) In regulation 105 (recovery of overpayments from prescribed benefits)—

(a) in paragraph (1)(a) for “excepting those specified in paragraph (2)” there shall be substituted “except guardian’s allowance”;

(b) in paragraph (1)(b) for “or family credit” there shall be substituted “, family credit or disability working allowance”; and

(c) paragraph (2) shall be omitted.

(4) In Schedule 2 (applicable amounts)—

(a) in paragraph 7(2) after “attendance allowance” there shall be inserted “or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the principal Act”;

(b) in paragraph 12—

(i) in sub-paragraph (1)(a)(i) for “mobility allowance” there shall be substituted “disability living allowance, disability working allowance”, and

(ii) for sub-paragraph (1)(a)(ii) and (iii) there shall be substituted—

“(ii) was in receipt of invalidity pension under section 15 of the principal Act when entitlement to that benefit ceased on account of the payment of a retirement pension under the principal Act and the claimant has since remained continuously entitled to housing benefit and, if the invalidity pension was payable to his partner, the partner is still a member of the family,

(a) S.R. 1987 No. 461; relevant amending regulations are S.R. 1988 No. 424, S.R. 1989 No. 125 and S.R. 1990 No. 345

- (iii) except where regulation 18(1)(a), (b), (c)(ii) or (d)(ii) (patients) applies, was in receipt of attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 82(6)(b) of the principal Act,";
- (c) in paragraph 13 in sub-paragraphs (2)(a)(i), (2)(b)(i) and (3)(a) after "attendance allowance" in each place where it occurs there shall be inserted "or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the principal Act";
- (d) in paragraph 14(b) for "attendance allowance or mobility allowance or both" there shall be substituted "disability living allowance"; and
- (e) in paragraph 14ZA(2)(b) after "attendance allowance" there shall be inserted "or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the principal Act".

(5) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings) in paragraph 5 after "the principal Act" there shall be inserted "or any disability living allowance".

*Amendment of the Family Credit (General) Regulations (Northern Ireland) 1987*

**12.**—(1) The Family Credit (General) Regulations (Northern Ireland) 1987(a) shall be amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(1) (interpretation) after the definition of "date of claim" there shall be inserted the following definitions—

" "disability living allowance" means a disability living allowance under section 37ZA of the Act;

"disability working allowance" means a disability working allowance under Article 21(6A) of the Order;".

(3) In regulation 3(2) (circumstances in which a person is treated as being or as not being in Northern Ireland) after "family credit" there shall be inserted "or disability working allowance".

(4) In regulation 50 (prevention of duplication of awards of family credit and income support) for the words preceding "or income support" there shall be substituted the following—

*"Prevention of duplication of awards of family credit, disability working allowance and income support*

**50.** Where a provision is made for the same child or young person in awards for overlapping periods, the first being an award of family credit and the second an award of family credit, disability working allowance".

(5) In Schedule 2 (sums to be disregarded in the calculation of income other than earnings) in paragraph 4 after "mobility allowance" there shall be inserted " , disability living allowance or disability working allowance".

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(a) .S.R. 1987 No. 463, to which there are amendments not relevant to these regulations

*Amendment of the Social Fund (Recovery by Deductions from Benefits) Regulations (Northern Ireland) 1988*

13. In regulation 2 of the Social Fund (Recovery by Deductions from Benefits) Regulations (Northern Ireland) 1988(a) (benefits from which an award may be recovered) after paragraph (b) there shall be inserted the following paragraph—

“(ba) disability working allowance;”.

*Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988*

14.—(1) The Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988(b) shall be amended in accordance with paragraphs (2) to (8).

(2) In regulation 1(2) (interpretation)—

(a) in the definition of “adjudicating authority” after “social security appeal tribunal” there shall be inserted “, a disability appeal tribunal”;

(b) after the definition of “the Claims and Payments Regulations” there shall be inserted the following definitions—

“ “disability living allowance” means a disability living allowance under section 37ZA of the Act;

“disability working allowance” means a disability working allowance under Article 21(6A) of the Order;”.

(3) In regulation 2 (making of interim payments)—

(a) in paragraph (2) at the beginning there shall be inserted “Subject to paragraph (3),”; and

(b) after paragraph (2) there shall be added the following paragraph—

“(3) Paragraph (2) shall not apply where the recipient of an interim payment of disability living allowance—

(a) is terminally ill within the meaning of section 35(2C) of the Act(c); or

(b) had an invalid carriage or other vehicle provided by the Department under Article 30 of the Health and Personal Social Services (Northern Ireland) Order 1972(d).”.

(4) In regulation 8(1) (duplication and prescribed payments) after sub-paragraph (c) there shall be inserted the following sub-paragraph—

“(cc) any disability working allowance;”.

(5) In regulation 14(1) and (3) (quarterly diminution of capital) for “or family credit” in each place where it occurs there shall be substituted “, family credit or disability working allowance”.

(a) S.R. 1988 No. 21

(b) S.R. 1988 No. 142, to which there are amendments not relevant to these regulations

(c) Section 35(2C) was inserted by Article 3(1) of the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15))

(d) S.I. 1972/1265 (N.I. 14)

(6) In regulation 15(2) (recovery by deduction from prescribed benefits) after sub-paragraph (d) there shall be added the following sub-paragraph—  
“(e) any disability working allowance.”.

(7) In regulation 16(2) (limitations on deductions from prescribed benefits) the words “, attendance allowance in respect of a child arising under section 35(1) to (4) of the Act, as modified by regulation 10 of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1987,” shall be omitted.

(8) In regulation 17 (recovery from couples) for “or family credit” in each place where it occurs there shall be substituted “, family credit or disability working allowance”.

*Amendment of the Social Security (Recoupment) Regulations (Northern Ireland) 1990*

**15.** In regulation 2(1) of the Social Security (Recoupment) Regulations (Northern Ireland) 1990(a) (relevant benefits) after sub-paragraph (a) there shall be inserted the following sub-paragraphs—

- “(aa) disability living allowance;
- (ab) disability working allowance;”.

*Revocations*

**16.** Regulation 9(b) of the Housing Benefit (General) (Amendment) Regulations (Northern Ireland) 1989(b) and regulation 5(b) of the Income Support (General) (Amendment) Regulations (Northern Ireland) 1989(c) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services on 10th January 1992.

(L.S.)

A. N. Burns

Assistant Secretary

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(a) S.R. 1990 No. 85, to which there are amendments not relevant to these regulations  
(b) S.R. 1989 No. 125  
(c) S.R. 1989 No. 139

*(This note is not part of the Regulations.)*

These regulations make consequential amendments to the following regulations as a result of the introduction of disability living allowance and disability working allowance—

- (a) the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976;
- (b) the Social Security Pensions (Home Responsibilities and Miscellaneous Amendments) Regulations (Northern Ireland) 1978;
- (c) the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978;
- (d) the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979;
- (e) the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979;
- (f) the Social Security (General Benefit) Regulations (Northern Ireland) 1984;
- (g) the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984;
- (h) the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987;
- (i) the Income Support (General) Regulations (Northern Ireland) 1987;
- (j) the Housing Benefit (General) Regulations (Northern Ireland) 1987;
- (k) the Family Credit (General) Regulations (Northern Ireland) 1987;
- (l) the Social Fund (Recovery by Deductions from Benefits) Regulations (Northern Ireland) 1988;
- (m) the Social Security (Payments on account, Overpayments and Recovery) Regulations (Northern Ireland) 1988; and
- (n) the Social Security (Recoupment) Regulations (Northern Ireland) 1990.

Regulation 16 makes consequential revocations.

The regulations correspond 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 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement for prior reference to the Social Security Advisory Committee.