

EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (DISABILITY LIVING ALLOWANCE) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010

S.R. 2010 No. 332

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under sections 73(1AB) and 171(1) to (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and Articles 2(2) and 74(1) and (3) of the Social Security (Northern Ireland) Order 1998 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations amend the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 in relation to entitlement to the higher rate mobility component of Disability Living Allowance for people with severe visual impairment.
- 2.2 Regulation 1 provides for citation, commencement and interpretation.
- 2.3 Regulation 2 amends regulation 12 of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 to set out which categories of severely visually impaired people will be entitled to the higher rate mobility component of Disability Living Allowance – if that person has the prescribed level of severe sight impairment and has been certified as being severely sight impaired or blind by a consultant ophthalmologist.
- 2.4 Regulation 3 prescribes registered optometrists and orthoptists as health care professionals in relation to claims for Disability Living Allowance to which section 73(1AB) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

3. Background

- 3.1 Disability Living Allowance provides a contribution towards some of the extra costs faced by severely disabled people as a result of long-term disability. It is made up of two components, either or both of which can be awarded: the care component and the mobility component.
- 3.2 Access to the higher rate mobility component of Disability Living Allowance (currently £49.85 per week) is generally through an inability or virtual inability to walk. There are currently two exceptions whereby

severely disabled people who are physically able to walk can access the higher rate if they:

- are both 100 per cent disabled as a result of blindness (ie. so blind as to be unable to perform any work for which eyesight is essential) and 80 per cent disabled as a result of deafness; or
- have a severe mental impairment, display severe behavioural problems and are in receipt of the highest rate of the care component of Disability Living Allowance.

3.3 Severely visually impaired people are currently not entitled to the higher rate mobility component of Disability Living Allowance by virtue of their vision difficulties alone, but will instead usually gain entitlement to the lower rate mobility component (currently £18.95 per week). That has been the case since the introduction of Disability Living Allowance in 1992.

3.4 This amendment extends the provisions to allow prescribed categories of severely visually impaired people to gain access for the first time to the higher rate mobility component of Disability Living Allowance.

3.5 The two categories of severe visual impairment specified in the Regulations represent a sub-group of those who have been certified by a consultant ophthalmologist as severely sight impaired or blind. The categories are:

- visual acuity, with appropriate corrective lenses if necessary, of less than 3/60 (meaning they can see at 3 metres what a normally sighted person can see at 60 metres – equivalent of being able to see only the top line of an eye test chart at 3 metres); and
- visual acuity of 3/60 or more, but less than 6/60, with appropriate lenses if necessary, a complete loss of peripheral visual field and a central visual field of no more than 10 degrees in total.

3.6 Assessment of entitlement under the new rules will be by reference to clinical data, where it exists, (for example, details on a certificate of visual impairment completed by a consultant ophthalmologist) or through an eye test conducted by an optometrist or orthoptist.

4. Consultation

4.1 The proposals to extend the provision of the higher rate mobility component of Disability Living Allowance to people with severe visual impairment were consulted on as part of the Welfare Reform Act (Northern Ireland) 2010. As the Regulations make, in relation to Northern Ireland, only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain they do not have to be submitted to the Social Security Advisory Committee. The Social Security Advisory Committee considered proposals for the corresponding Great Britain amendment and decided that it did not want the Regulations formally referred.

5. Equality Impact

- 5.1 The impact of extending the provision of the higher rate mobility component of Disability Living Allowance to people with severe visual impairment on equality of opportunity among those groups listed in section 75 of the Northern Ireland Act 1998 was assessed as part of the Equality Impact Assessment of the Welfare Reform Act (Northern Ireland) 2010. These Regulations set out the categories of severely visually impaired people who will be entitled to the higher rate mobility component of Disability Living Allowance and they do not have any additional implications for equality of opportunity.

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose any new costs on business, charities or voluntary bodies.

7. Financial Implications

- 7.1 This measure is estimated to benefit 2000 severely visually impaired people during 2011/12 at a cost of £3.2m and funding is to come from Annually Managed Expenditure.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—
- (a) is not incompatible with any of the Convention rights,
 - (b) is not incompatible with Community law,
 - (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
 - (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1 Not applicable.

10. Parity or Replicatory Measure

- 10.1 The corresponding Great Britain Regulations are the Social Security (Disability Living Allowance) (Amendment) Regulations 2010 (S.I. 2010/1651) and come into force on 15 October 2010. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.