



# Disability Living Allowance and Disability Working Allowance Act 1991

## 1991 CHAPTER 21

### *Disability living allowance*

#### **1 Introduction of disability living allowance.**

(1) The following paragraph shall be inserted after subsection (1)(c) of section 34 (descriptions of non-contributory benefits) of the <sup>M1</sup>Social Security Act 1975 (“the 1975 Act”)—

“(ca) disability living allowance;”.

(2) The following sections shall be inserted after section 37 of that Act—

#### **“37ZA Disability living allowance.**

- (1) Disability living allowance shall consist of a care component and a mobility component.
- (2) A person’s entitlement to a disability living allowance may be an entitlement to either component or to both of them.
- (3) A person may be awarded either component for a fixed period or for life, but if his award of a disability living allowance consists of both components, he may not be awarded the components for different fixed periods.
- (4) The weekly rate of a person’s disability living allowance for a week for which he has only been awarded one component is the appropriate weekly rate for that component as determined in accordance with this Act or regulations under it.
- (5) The weekly rate of a person’s disability living allowance for a week for which he has been awarded both components is the aggregate of the appropriate weekly rates for the two components as so determined.

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- (6) A person shall not be entitled to a disability living allowance unless he satisfies prescribed conditions as to residence and presence in Great Britain.

**37ZB The care component.**

- (1) Subject to the provisions of this Act, a person shall be entitled to the care component of a disability living allowance for any period throughout which—
- (a) he is so severely disabled physically or mentally that—
    - (i) he requires in connection with his bodily functions attention from another person for a significant portion of the day (whether during a single period or a number of periods); or
    - (ii) he cannot prepare a cooked main meal for himself if he has the ingredients; or
  - (b) he is so severely disabled physically or mentally that, by day, he requires from another person—
    - (i) frequent attention throughout the day in connection with his bodily functions; or
    - (ii) continual supervision throughout the day in order to avoid substantial danger to himself or others; or
  - (c) he is so severely disabled physically or mentally that, at night,—
    - (i) he requires from another person prolonged or repeated attention in connection with his bodily functions; or
    - (ii) in order to avoid substantial danger to himself or others he requires another person to be awake for a prolonged period or at frequent intervals for the purpose of watching over him.
- (2) Subject to the following provisions of this section, a person shall not be entitled to the care component of a disability living allowance unless—
- (a) throughout—
    - (i) the period of 3 months immediately preceding the date on which the award of that component would begin; or
    - (ii) such other period of 3 months as may be prescribed,
 he has satisfied or is likely to satisfy one or other of the conditions mentioned in subsection (1)(a) to (c) above; and
  - (b) he is likely to continue to satisfy one or other of those conditions throughout—
    - (i) the period of 6 months beginning with that date; or
    - (ii) (if his death is expected within the period of 6 months beginning with that date) the period so beginning and ending with his death.
- (3) Three weekly rates of the care component shall be prescribed.
- (4) The weekly rate of the care component payable to a person for each week in the period for which he is awarded that component shall be—
- (a) the highest rate, if he falls within subsection (2) above by virtue of having satisfied or being likely to satisfy both the conditions mentioned in subsection (1)(b) and (c) above throughout both the period mentioned in paragraph (a) of subsection (2) above and that mentioned in paragraph (b) of that subsection;

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- (b) the middle rate, if he falls within that subsection by virtue of having satisfied or being likely to satisfy one or other of those conditions throughout both those periods; and
  - (c) the lowest rate in any other case.
- (5) For the purposes of this section, a person who is terminally ill, as defined in section 35(2C) above, and makes a claim expressly on the ground that he is such a person, shall be taken—
  - (a) to have satisfied the conditions mentioned in subsection (1)(b) and (c) above for the period of 3 months immediately preceding the date of the claim, or, if later, the first date on which he is terminally ill (so however that the care component shall not be payable by virtue of this paragraph for any period preceding that date); and
  - (b) to satisfy or to be likely to satisfy those conditions for the remainder of his life beginning with that date.
- (6)

For the purposes of this section in its application to a person for any period in which he is under the age of 16—

  - (a) sub-paragraph (ii) of subsection (1)(a) above shall be omitted; and
  - (b) neither the condition mentioned in sub-paragraph (i) of that paragraph nor any of the conditions mentioned in subsection (1)(b) and (c) above shall be taken to be satisfied unless—
    - (i) he has requirements of a description mentioned in subsection (1)(a), (b) or (c) above substantially in excess of the normal requirements of persons of his age; or
    - (ii) he has substantial requirements of any such description which younger persons in normal physical and mental health may also have but which persons of his age and in normal physical and mental health would not have.
- (7) Subject to subsections (5) and (6) above, circumstances may be prescribed in which a person is to be taken to satisfy or not to satisfy such of the conditions mentioned in subsection (1)(a) to (c) above as may be prescribed.
- (8) Regulations may provide that a person shall not be paid any amount in respect of a disability living allowance which is attributable to entitlement to the care component for a period when he is a person for whom accommodation is provided—
  - (a) in pursuance—
    - (i) of Part III of the National Assistance Act 1948 or paragraph 2 of Schedule 8 to the National Health Service Act 1977; or
    - (ii) of Part IV of the Social Work (Scotland) Act 1968 or section 7 of the Mental Health (Scotland) Act 1984; or
  - (b) in circumstances in which the cost is, or may be, borne wholly or partly out of public or local funds, in pursuance of those enactments or of any other enactment relating to persons under disability or to young persons or to education or training.

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### **37ZC The mobility component.**

- (1) Subject to the provisions of this Act, a person shall be entitled to the mobility component of a disability living allowance for any period in which he is over the age of 5 and through out which—
  - (a) he is suffering from physical disablement such that he is either unable to walk or virtually unable to do so; or
  - (b) he falls within subsection (2) below; or
  - (c) he falls within subsection (3) below; or
  - (d) he is able to walk but is so severely disabled physically or mentally that, disregarding any ability he may have to use routes which are familiar to him on his own, he cannot take advantage of the faculty out of doors without guidance or supervision from another person most of the time.
- (2) A person falls within this subsection if—
  - (a) he is both blind and deaf; and
  - (b) he satisfies such other conditions as may be prescribed.
- (3) A person falls within this subsection if—
  - (a) he is severely mentally impaired; and
  - (b) he displays severe behavioural problems; and
  - (c) he satisfies both the conditions mentioned in section 37ZB(1)(b) and (c) above.
- (4) For the purposes of this section in its application to a person for any period in which he is under the age of 16, the condition mentioned in subsection (1)(d) above shall not be taken to be satisfied unless—
  - (a) he requires substantially more guidance or supervision from another person than persons of his age in normal physical and mental health would require; or
  - (b) persons of his age in normal physical and mental health would not require such guidance or supervision.
- (5) Subject to subsection (4) above, circumstances may be prescribed in which a person is to be taken to satisfy or not to satisfy a condition mentioned in subsection (1)(a) or (d) or subsection (2)(a) above.
- (6) Regulations shall specify the cases which fall within subsection (3)(a) and (b) above.
- (7) A person who is to be taken for the purposes of section 37ZB above to satisfy or not to satisfy a condition mentioned in subsection (1)(b) or (c) of that section is to be taken to satisfy or not to satisfy it for the purposes of subsection (3)(c) above.
- (8) A person shall not be entitled to the mobility component for a period unless during most of that period his condition will be such as permits him from time to time to benefit from enhanced facilities for locomotion.
- (9) A person shall not be entitled to the mobility component of a disability living allowance unless—

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- (a) throughout—
    - (i) the period of 3 months immediately preceding the date on which the award of that component would begin; or
    - (ii) such other period of 3 months as may be prescribed,he has satisfied or is likely to satisfy one or other of the conditions mentioned in subsection (1) above; and
  - (b) he is likely to continue to satisfy one or other of those conditions throughout—
    - (i) the period of 6 months beginning with that date; or
    - (ii) (if his death is expected within the period of 6 months beginning with that date) the period so beginning and ending with his death.
- (10) Two weekly rates of the mobility component shall be prescribed.
- (11) The weekly rate of the mobility component payable to a person for each week in the period for which he is awarded that component shall be—
- (a) the higher rate, if he falls within subsection (9) above by virtue of having satisfied or being likely to satisfy one or other of the conditions mentioned in subsection (1)(a), (b) and (c) above throughout both the period mentioned in paragraph (a) of subsection (9) above and that mentioned in paragraph (b) of that subsection; and
  - (b) the lower rate in any other case.
- (12) For the purposes of this section in its application to a person who is terminally ill, as defined in section 35(2C) above, and who makes a claim expressly on the ground that he is such a person—
- (a) subsection (9)(a) above shall be omitted; and
  - (b) subsection (11)(a) above shall have effect as if for the words from “both” to “subsection”, in the fourth place where it occurs, there were substituted the words “the period mentioned in subsection (9) (b) above”.
- (13) Regulations may prescribe cases in which a person who has the use—
- (a) of an invalid carriage or other vehicle provided by the Secretary of State under section 5(2)(a) of the National Health Service Act 1977 and Schedule 2 to that Act or under section 46 of the National Health Service (Scotland) Act 1978 or provided under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972; or
  - (b) of any prescribed description of appliance supplied under the enactments relating to the National Health Service being such an appliance as is primarily designed to afford a means of personal and independent locomotion out of doors,
- is not to be paid any amount attributable to entitlement to the mobility component or is to be paid disability living allowance at a reduced rate in so far as it is attributable to that component.
- (14) A payment to or in respect of any person which is attributable to his entitlement to the mobility component, and the right to receive such a payment, shall (except in prescribed circumstances and for prescribed

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purposes) be disregarded in applying any enactment or instrument under which regard is to be had to a person's means.

### **37ZD Persons 65 or over.**

- (1) Except to the extent to which regulations provide otherwise, no person shall be entitled to either component of a disability living allowance for any period after he attains the age of 65 otherwise than by virtue of an award made before he attains that age.
- (2) Regulations may provide in relation to persons who are entitled to a component of a disability living allowance by virtue of subsection (1) above that any provision of this Act which relates to disability living allowance, so far as it so relates, and any provision of Part VI of the Social Security Act 1986 which is relevant to disability living allowance—
  - (a) shall have effect subject to modifications, additions or amendments; or
  - (b) shall not have effect.

### **37ZE Disability living allowance—supplementary.**

- (1) Subject to subsection (2) below, a person shall not be entitled to a disability living allowance for any period preceding the date on which a claim for it is made or treated as made by him or on his behalf.
- (2) Notwithstanding anything in subsection (1) above, provision may be made by regulations for a person to be entitled to a component of a disability living allowance for a period preceding the date on which a claim for such an allowance is made or treated as made by him or on his behalf if he has previously been entitled to that component.
- (3) For the purposes of sections 37ZB(5) and 37ZC(12) above where—
  - (a) a person purports to make a claim for a disability living allowance on behalf of another; and
  - (b) the claim is made expressly on the ground that the person on whose behalf it purports to be made is terminally ill,
 that person shall be regarded as making the claim notwithstanding that it is made without his knowledge or authority.”.

#### **Marginal Citations**

**M1** 1975 c. 14.

## **2 Attendance allowance and mobility allowance.**

- (1) In section 35(1) of the 1975 Act (qualifications for attendance allowance) for the words “or presence in Great Britain” there shall be substituted the words “ and presence in Great Britain, he is aged 65 or over, he is not entitled to the care component of a disability living allowance ”.
- (2) The Attendance Allowance Board is dissolved.

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(3) Section 37A of the 1975 Act (mobility allowance) is repealed.

### 3 Disability Living Allowance Advisory Board.

- (1) There shall be a body, to be known as the Disability Living Allowance Advisory Board (and in this Act referred to as “the Board”).
- (2) Regulations shall confer on the Board such functions relating to disability living allowance or attendance allowance as the Secretary of State thinks fit and shall make provision for—
  - (a) the Board’s constitution;
  - (b) the qualifications of its members;
  - (c) the method of their appointment;
  - (d) the term of office and other terms of appointment of its members;
  - (e) their removal.
- (3) Regulations may also make provision—
  - (a) enabling the Board to appoint persons as advisers to it on matters on which in its opinion they are specially qualified;
  - (b) for the appointment of officers and servants of the Board;
  - (c) enabling the Board to act notwithstanding any vacancy among its members;
  - (d) enabling the Board to make rules for regulating its procedure (including its quorum).
- (4) The expenses of the Board to such an amount as may be approved by the Treasury shall be paid by the Secretary of State out of money provided by Parliament.
- (5) There may be paid as part of the expenses of the Board—
  - (a) to all or any of the members of the Board, such salaries or other remuneration and travelling and other allowances;
  - (b) to advisers to the Board, such fees; and
  - (c) to such other persons as may be specified in regulations such travelling and other allowances (including compensation for loss of remunerative time),as the Secretary of State may with the consent of the Treasury determine.
- (6) The Secretary of State may furnish the Board with such information as he considers that it may need to enable it to discharge its functions.
- (7) Regulations under this section may make such incidental, supplementary, consequential or transitional provision as appears to the Secretary of State to be expedient for the purposes of the regulations.
- (8) In this section “regulations” means regulations made by the Secretary of State by statutory instrument.

#### Commencement Information

- II** S. 3 wholly in force 12.8.1991; s. 3 in force for certain purposes 3.7.1991; and for all other purposes 12.8.1991 see s. 15(2) and S.I. 1991/1519, art. 2

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#### **4 Management of disability living allowance and attendance allowance etc.**

- (1) Schedule 1 to this Act shall have effect in relation to the management of disability living allowance and attendance allowance.
- (2) The further amendments specified in Schedule 2 to this Act shall be made.

#### **5 Regulations supplementary to ss. 1 to 4.**

- (1) The Secretary of State may make such regulations as appear to him necessary or expedient in relation to the substitution of disability living allowance for attendance allowance and mobility allowance and the dissolution of the Attendance Allowance Board.
- (2) Without prejudice to the generality of this section, regulations under this section—
  - (a) may provide for the termination or cancellation of awards of attendance allowance and awards of mobility allowance;
  - (b) may direct that a person whose award of either allowance has been terminated or cancelled by virtue of the regulations or who is a child of such a person shall by virtue of the regulations be treated as having been awarded one or more disability living allowances;
  - (c) may direct that a disability living allowance so treated as having been awarded shall consist of such component as the regulations may specify or, if the regulations so specify, of both components, and as having been awarded either component at such weekly rate and for such period as the regulations may specify;
  - (d) may provide for the termination in specified circumstances of an award of disability living allowance;
  - (e) may direct that in specified circumstances a person whose award of disability living allowance has been terminated by virtue of the regulations shall by virtue of the regulations be treated as having been granted a further award of a disability living allowance consisting of such component as the regulations may specify or, if the regulations so specify, of both components, and as having been awarded on the further award either component at such weekly rate and for such period as the regulations may specify;
  - (f) may provide for the review of awards made by virtue of paragraph (b) or (e) above and for the treatment of claims for disability living allowance in respect of beneficiaries with such awards;
  - (g) may direct that for specified purposes certificates issued by the Attendance Allowance Board shall be treated as evidence of such matters as may be specified in the regulations;
  - (h) may direct that for specified purposes the replacement of attendance allowance and mobility allowance by disability living allowance shall be disregarded;
  - (j) may direct that a claim for attendance allowance or mobility allowance shall be treated in specified circumstances and for specified purposes as a claim for disability living allowance or that a claim for disability living allowance shall be treated in specified circumstances and for specified purposes as a claim for attendance allowance or mobility allowance or both;
  - (k) may direct that in specified circumstances and for specified purposes a claim for a disability living allowance shall be treated as having been made when no such claim was in fact made;



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- (l) may direct that in specified circumstances a claim for attendance allowance, mobility allowance or disability living allowance shall be treated as not having been made;
  - (m) may direct that in specified circumstances where a person claims attendance allowance or mobility allowance or both, and also claims disability living allowance, his claims may be treated as a single claim for such allowances for such periods as the regulations may specify;
  - (n) may direct that cases relating to mobility allowance shall be subject to adjudication in accordance with the provisions of the 1975 Act relating to disability living allowance; and
  - (p) may direct that, at a time before the Attendance Allowance Board is dissolved, in specified circumstances cases relating to attendance allowance shall be subject to adjudication under the system of adjudication for such cases introduced by this Act.
- (3) Regulations under this section may provide that any provision of the 1975 Act which relates to disability living allowance, attendance allowance or mobility allowance, so far as it so relates, and any provision of Part VI of the 1986 Act which is relevant to disability living allowance, attendance allowance or mobility allowance—
- (a) shall have effect subject to modifications, additions or amendments; or
  - (b) shall not have effect.
- (4) Subsections (1), (2) and (3A) of section 166 of the 1975 Act shall apply in relation to the power conferred by this section to make regulations as they apply in relation to any power conferred by that Act to make regulations, but as if for references to that Act there were substituted references to this section.

VALID FROM 19/11/1991

### *Disability working allowance*

#### **6 Introduction of disability working allowance.**

- (1) Section 20 (income-related benefits) of the <sup>M2</sup>Social Security Act 1986 (“the 1986 Act”) shall be amended as follows.
- (2) The following paragraph shall be inserted after subsection (1)(b)—  
“(bb) disability working allowance;”.
- (3) In subsection (2) for the words “or (b)” there shall be substituted the words “, (b) or (bb)”.
- (4) The following subsections shall be inserted after subsection (6)—  
“(6A) A person in Great Britain who has attained the age of 16 and qualifies under subsection (6B) below is entitled to a disability working allowance if, when the claim for it is made or is treated as made—
  - (a) he is engaged and normally engaged in remunerative work;
  - (b) he has a physical or mental disability which puts him at a disadvantage in getting a job;
  - (c) his income—

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- (i) does not exceed the applicable amount; or
  - (ii) exceeds it, but only by such an amount that there is an amount remaining if the deduction for which section 21(3B) below provides is made; and
  - (d) except in such circumstances as may be prescribed, neither he nor, if he has a family, any member of it, is entitled to family credit.
- (6B) Subject to subsection (6E) below, a person qualifies under this subsection if—
- (a) for one or more of the 56 days immediately preceding the date when the claim for a disability working allowance is made or is treated as made there was payable to him one or more of the following—
    - (i) an invalidity pension under section 15 of the Social Security Act 1975;
    - (ii) an invalidity pension under section 15 or 16 of the Social Security Pensions Act 1975;
    - (iii) a severe disablement allowance under section 36 of the Social Security Act 1975;
    - (iv) income support, housing benefit or community charge benefit,
 or a corresponding benefit under any enactment having effect in Northern Ireland;
  - (b) when the claim for a disability working allowance is made or is treated as made, there is payable to him one or more of the following—
    - (i) an attendance allowance under section 35 of the Social Security Act 1975;
    - (ii) a disability living allowance under section 37ZA of that Act;
    - (iii) an increase of disablement pension under section 61 of that Act (constant attendance allowance);
    - (iv) an analogous pension increase under a war pension scheme or an industrial injuries scheme,
 or a corresponding benefit under any enactment having effect in Northern Ireland; or
  - (c) when the claim for a disability working allowance is made or is treated as made, he has an invalid carriage or other vehicle provided by the Secretary of State under section 5(2)(a) of the National Health Service Act 1977 and Schedule 2 to that Act or under section 46 of the National Health Service (Scotland) Act 1978 or provided under Article 30(1) of the Health and Personal Social Services (Northern Ireland) Order 1972.
- (6C) For the purposes of subsection (6A) above a person has a disability which puts him at a disadvantage in getting a job only if he satisfies prescribed conditions or prescribed circumstances exist in relation to him.
- (6D) In subsection (6A)(c) above “the applicable amount” means the applicable amount at such date as may be prescribed.
- (6E) If the only benefit mentioned in paragraph (a) of subsection (6B) above which is payable to a person as there mentioned is—

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- (a) a benefit mentioned in sub-paragraph (iv) of that paragraph; or
- (b) a corresponding benefit under any enactment having effect in Northern Ireland,

he only qualifies under that subsection in prescribed circumstances.

(6F) A disability working allowance shall be payable for a period of 26 weeks or such other period as may be prescribed and, subject to regulations, an award of a disability working allowance and the rate at which it is payable shall not be affected by any change of circumstances during that period or by any order under section 63 below.”

(5) In the application of subsection (6B) of section 20 to claims made or treated as made before the first day in respect of which disability living allowance is payable paragraph (b) of that subsection shall have effect as if the following sub-paragraph were substituted for sub-paragraph (ii)—

“(ii) a mobility allowance under section 37A of that Act;”.

(6) In subsection (11)—

(a) after the definition of family there shall be inserted—

““industrial injuries scheme” means a scheme made under section 159 of the Social Security Act 1975 or under the Industrial Injuries and Diseases (Old Cases) Act 1975;”;

(b) after the definition of unmarried couple there shall be inserted—

““war pension scheme” means a scheme under which war pensions (as defined in section 25 of the Social Security Act 1989) are provided;”.

“(ff) specifying the descriptions of pension increases under war pension schemes or industrial injuries schemes that are analogous to the benefits mentioned in subsection (6B)(b)(i) to (iii) above;”.

(8) The following subsections shall be inserted after subsection (3) of section 21 of the 1986 Act (amount of income-related benefits)—

“(3A) Where a person is entitled to a disability working allowance by virtue of section 20(6A)(c)(i) above, the amount shall be the amount which is the appropriate maximum disability working allowance in his case.

(3B) Where a person is entitled to a disability working allowance by virtue of section 20(6A)(c)(ii) above, the amount shall be what remains after the deduction from the appropriate maximum disability working allowance of a prescribed percentage of the excess of his income over the applicable amount.”.

(9) The following paragraph shall be inserted after subsection (6)(a) of that section—

“(aa) the appropriate maximum disability working allowance;”.

#### Commencement Information

**I2** S. 6 wholly in force 6.4.1992; in force for certain purposes 19.11.1991 and for all other purposes 6.4.1992; see s. 15(2) and S.I. 1991/2617, art. 2(b)(f), Sch.

#### Marginal Citations

**M2** 1986 c. 50.

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## 7 Disability working allowance - supplementary.

(1) After section 27A of the 1986 Act there shall be inserted—

*“ Disability working allowance*

### 27B Supplementary provisions about disability working allowance.

(1) In this section—

“initial claim” means a claim for a disability working allowance made by a person—

- (a) to whom it has not previously been payable; or
- (b) to whom it has not been payable during the period of 2 years immediately preceding the date on which the claim is made or is treated as made; and

“repeat claim” means any other claim for a disability working allowance.

(2) On an initial claim a declaration by the claimant that he has a physical or mental disability which puts him at a disadvantage in getting a job is conclusive, except in such circumstances as may be prescribed, that for the purposes of section 20(6A)(b) above he has such a disability (in accordance with regulations under section 20(6C) above).

(3) If—

- (a) a repeat claim is made or treated as made not later than the end of the period of 8 weeks commencing with the last day of the claimant’s previous award; and
- (b) on the claim which resulted in that award he qualified under section 20(6B) above by virtue—
  - (i) of paragraph (a) of that subsection; or
  - (ii) of there being payable to him a benefit under an enactment having effect in Northern Ireland and corresponding to a benefit mentioned in that paragraph,

he shall be treated on the repeat claim as if he still so qualified.

(4) Regulations may provide that an award of a disability working allowance to a person shall terminate if—

- (a) a disability working allowance becomes payable in respect of some other person who was a member of his family at the date of his claim for a disability working allowance; or
- (b) income support or family credit becomes payable in respect of a person who was a member of the family at that date.”.

(2) The further amendments specified in Schedule 3 to this Act shall have effect.

#### Commencement Information

**I3** S. 7 wholly in force 6.4.1992; in force for certain purposes 16.11.1991, 10.3.1992 and for all other purposes 6.4.1992; see s. 15(2) and S.I. 1991/2617, art. 2(b)(e)(f)

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## **8 Effect on entitlement to family credit of entitlement to disability working allowance.**

(1) In subsection (5)(b) of section 20 of the 1986 Act after the words “remunerative work” there shall be inserted the words—

“(bb) except in such circumstances as may be prescribed, neither he nor any member of his family is entitled to a disability working allowance;”.

(2) In subsection (10)(b) of that section after the words “income support” there shall be inserted the words “ or a disability working allowance ”.

### **Commencement Information**

**I4** S. 8 wholly in force 6.4.1992; in force for certain purposes 19.11.1991 and for all other purposes 6.4.1992; see s. 15(2) and S.I. 1991/2617, art. 2(b)(f), Sch.

## **9 Entitlement to other benefits on termination of employment after period of entitlement to disability working allowance.**

(1) The following subsections shall be inserted after subsection (5) of section 15 of the 1975 Act (invalidity pension)—

“(5A) Where—

- (a) a person who is engaged and normally engaged in remunerative work ceases to be so engaged; and
- (b) he is entitled to a disability working allowance for the week in which there falls the last day on which he is so engaged; and
- (c) he qualified for a disability working allowance for that week by virtue of an invalidity pension under this section having been payable to him; and
- (d) the first relevant day after he ceases to be engaged as mentioned in paragraph (a) above is for him a day of incapacity for work and falls not later than the end of the period of two years beginning with the last day for which he was entitled to such a pension,

any day since that day which fell within a week for which he was entitled to a disability working allowance shall be treated for the purposes of any claim for such a pension for a period commencing after he ceases to be engaged as mentioned in paragraph (a) above as having been a day of incapacity for work.

(5B) Any day other than a Sunday or a day prescribed under section 17(1)(e) below is a relevant day for the purposes of subsection (5A) above.”.

(2) The following subsection shall be inserted after subsection (6B) of that Act (severe disablement allowance)—

“(6C) Where—

- (a) a person who is engaged and normally engaged in remunerative work ceases to be so engaged; and
- (b) he is entitled to a disability working allowance for the week in which there falls the last day on which he is so engaged; and

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- (c) he qualified for a disability working allowance for that week by virtue of a severe disablement allowance having been payable to him; and
- (d) the first day after he ceases to be engaged as mentioned in paragraph (a) above is a day on which he is incapable of work and falls not later than the end of the period of two years beginning with the last day for which he was entitled to a severe disablement allowance,

any day since that day which fell within a week for which he was entitled to a disability working allowance shall be treated for the purposes of any claim for a severe disablement allowance for a period commencing after he ceases to be engaged as mentioned in paragraph (a) above as having been a day on which he was both incapable of work and disabled.”.

- (3) The following section shall be inserted after section 16 of the <sup>M3</sup>Social Security Pensions Act 1975—

**“16A Entitlement to invalidity pension on termination of employment after a period of entitlement to disability working allowance.**

- (1) Where—

- (a) a person who is engaged and normally engaged in remunerative work ceases to be so engaged; and
- (b) he is entitled to a disability working allowance for the week in which there falls the last day on which he is so engaged; and
- (c) he qualified for a disability working allowance for that week by virtue of an invalidity pension under section 15 or 16 above having been payable to him; and
- (d) the first relevant day after he ceases to be engaged as mentioned in paragraph (a) above is a day on which he is incapable of work and falls not later than the end of the period of two years beginning with the last day for which he was entitled to such a pension,

any day since that day which fell within a week for which he was entitled to a disability working allowance shall be treated for the purposes of any claim for such a pension for a period commencing after he ceases to be engaged as mentioned in paragraph (a) above as having been a day on which he was incapable of work.

- (2) Any day other than a Sunday or a day prescribed under section 17(1)(e) of the principal Act is a relevant day for the purposes of this section.”.

- (4) In Schedule 20 to the 1975 Act, at the end of the definition of “week” there shall be added the words “ and except in relation to disability working allowance ”.

- (5) Where—

- (a) a person becomes entitled to an invalidity pension or a severe disablement allowance by virtue of section 15(5A) or 36(6C) of the 1975 Act or section 16A of the Social Security Pensions Act 1975; and
- (b) when he was last entitled to that pension or allowance, it was increased in respect of a dependant by virtue of—
  - (i) regulation 8(6) of the <sup>M4</sup>Social Security Benefit (Dependency) Regulations 1977;

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- (ii) regulation 2 of the <sup>M5</sup>Social Security (Savings for Existing Beneficiaries) Regulations 1984;
- (iii) regulation 3 of the <sup>M6</sup>Social Security Benefit (Dependency) Amendment Regulations 1984; or
- (iv) regulation 4 of the <sup>M7</sup>Social Security Benefit (Dependency and Computation of Earnings) Amendment Regulations 1989,

for the purpose of determining whether his pension or allowance should be increased by virtue of that regulation for any period beginning with the day on which he again becomes entitled to his pension or allowance, the increase in respect of that dependant shall be treated as having been payable to him on each day between the last day on which his pension or allowance was previously payable and the day on which he again becomes entitled to it.

#### Marginal Citations

- M3** 1975 c. 60.
- M4** S.I. 1977/343.
- M5** S.I. 1984/1696.
- M6** S.I. 1984/1698.
- M7** S.I. 1989/1690.

### General

#### 10 Repeals.

The enactments mentioned in Schedule 4 to this Act are repealed to the extent specified in the third column of that Schedule.

#### 11 Supplementary.

(1) The Secretary of State may by regulations make—

- (a) such consequential provision; or
- (b) such savings,

as he considers necessary or expedient in preparation for or in connection with the coming into force of any provision of this Act or the operation of any enactment repealed or amended by any such provision during any period when the repeal or amendment is not wholly in force.

(2) Subsections (1), (2) and (3A) of section 166 of the 1975 Act shall apply in relation to the power conferred by this section to make regulations as they apply in relation to any power conferred by that Act to make regulations, but as if for references to that Act there were substituted references to this section.

#### 12 Regulations.

(1) A statutory instrument containing (whether alone or with other provisions)—

- (a) regulations under Chapter II of Part II of the 1975 Act which relate to disability living allowance and are made before the first day in respect of which disability living allowance is payable;

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- (b) regulations under sections 100A to 100D or section 104A of that Act which relate to attendance allowance or disability living allowance and are made before that day;
- (c) regulations under Part II of the 1986 Act or under sections 100A to 100D or section 104A of the 1975 Act which relate to disability working allowance and are made before the first day in respect of which disability working allowance is payable;
- (d) the first regulations made under section 3 above; and
- (e) the first regulations made under section 5 above,

shall not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(2) A statutory instrument—

- (a) which contains (whether alone or with other provisions) any regulations under this Act; and
- (b) which is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) If the Treasury so direct, regulations under this Act shall be made only in conjunction with them.

### 13 Provision for Northern Ireland.

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the <sup>M8</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

M8 1974 c. 28.

### 14 Administrative expenses.

There shall be paid out of money provided by Parliament—

- (a) any increase attributable to the introduction of disability living allowance and the establishment of disability appeal tribunals in the administrative expenses of the Secretary of State or other government department in carrying the 1975 Act into effect which are payable out of money so provided; and
- (b) any increase attributable to the introduction of disability working allowance in the expenses of the Secretary of State attributable to the 1986 Act which are so payable.



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## 15 Short title, commencement and extent.

- (1) This Act may be cited as the Disability Living Allowance and Disability Working Allowance Act 1991, and this Act shall be included among the Acts which may be cited together as the Social Security Acts 1975 to 1991.
- (2) Apart from the provisions specified in subsection (3) below, this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different provisions of this Act or for different purposes of the same provision.
- (3) The provisions referred to in subsection (2) above are sections 12, 13, 14 and this section.
- (4) The following provisions of this Act extend to Northern Ireland—
  - section 4, so far as it relates to paragraphs 2, 6 and 7, 9, 11, 13 and 14, 18, 20 and 21 of Schedule 2;
  - section 5;
  - section 7, so far as it relates to paragraph 11 of Schedule 3;
  - section 10, so far as it relates to the repeals in Schedule 1 to the <sup>M9</sup>House of Commons Disqualification Act 1975 and Schedule 5 to the <sup>M10</sup>Value Added Tax Act 1983;
  - section 11;
  - section 12;
  - section 13;
  - section 14; and
  - this section.
- (5) Except as provided by this section, this Act does not extend to Northern Ireland.

### Subordinate Legislation Made

**P1** [S. 15\(2\)](#): s. 15(2) power exercised by [S.I.1991/1519](#)

### Marginal Citations

**M9** [1975 c. 24](#).

**M10** [1983 c. 55](#).

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**Changes to legislation:**

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