



# Social Security Contributions and Benefits (Northern Ireland) Act 1992

## 1992 CHAPTER 7

### PART III

#### NON-CONTRIBUTORY BENEFITS

##### *Attendance allowance*

#### **64 Entitlement.**

- (1) A person shall be entitled to an attendance allowance if he is aged 65 or over, he is not entitled to the care component of a disability living allowance and he satisfies either—
  - (a) the condition specified in subsection (2) below (“the day attendance condition”), or
  - (b) the condition specified in subsection (3) below (“the night attendance condition”),and prescribed conditions as to residence and presence in Northern Ireland.
- (2) A person satisfies the day attendance condition if he is so severely disabled physically or mentally that, by day, he requires from another person either—
  - (a) frequent attention throughout the day in connection with his bodily functions, or
  - (b) continual supervision throughout the day in order to avoid substantial danger to himself or others.
- (3) A person satisfies the night attendance condition if he is so severely disabled physically or mentally that, at night,—
  - (a) he requires from another person prolonged or repeated attention in connection with his bodily functions, or

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- (b) 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.

[<sup>F1</sup>(4) Circumstances may be prescribed in which a person is to be taken to satisfy or not to satisfy such of the conditions mentioned in subsections (2) and (3) above as may be prescribed.]

#### Textual Amendments

**F1** S. 64(4) added (12.1.2000) by S.I. 1999/3147 (N.I. 11), art. 63(1); S.R. 1999/494, art. 2(3)

#### Modifications etc. (not altering text)

**C1** S. 64 modified (1.7.1992) by Social Security (Consequential Provisions) (Northern Ireland) Act 1992 c. 9, ss. 5, 7(2), Sch. 3 Pt. II para. 19.

## 65 Period and rate of allowance.

- (1) Subject to the following provisions of this Act, the period for which a person is entitled to an attendance allowance shall be—
- (a) a period throughout which he has satisfied or is likely to satisfy the day or the night attendance condition or both; and
  - (b) a period preceded immediately, or within such period as may be prescribed, by one of not less than 6 months throughout which he satisfied, or is likely to satisfy, one or both of those conditions.
- (2) For the purposes of subsection (1) above a person who suffers from renal failure and is undergoing such form of treatment as may be prescribed shall, in such circumstances as may be prescribed, be deemed to satisfy or to be likely to satisfy the day or the night attendance condition or both.
- (3) The weekly rate of the attendance allowance payable to a person for any period shall be the higher rate specified in Schedule 4, Part III, paragraph 1, if both as regards that period and as regards the period of 6 months mentioned in subsection (1)(b) above he has satisfied or is likely to satisfy both the day and the night attendance conditions, and shall be the lower rate in any other case.
- (4) A person shall not be entitled to an attendance allowance for any period preceding the date on which he makes, or is treated as making, a claim for it.
- (5) Notwithstanding anything in subsection (4) above, provision may be made by regulations for a person to be entitled to an attendance allowance for a period preceding the date on which he makes or is treated as making a claim for it if such an allowance has previously been paid to or in respect of him.
- (6) Except in so far as regulations otherwise provide and subject to section 66(1) below—
- (a) a claim for an attendance allowance may be made during the period of 6 months immediately preceding the period for which the person to whom the claim relates is entitled to the allowance; and
  - (b) an award may be made in pursuance of a claim so made, subject to the condition that, throughout that period of 6 months, that person satisfies—
    - (i) both the day and the night attendance conditions, or
    - (ii) if the award is at the lower rate, one of those conditions.

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## 66 Attendance allowance for the terminally ill.

- (1) If a terminally ill person makes a claim expressly on the ground that he is such a person, then—
- (a) he shall be taken—
    - (i) to satisfy, or to be likely to satisfy, both the day attendance condition and the night attendance condition [<sup>F2</sup>for so much of the period for which he is terminally ill as does not fall before the date of the claim]; and
    - (ii) to have satisfied those conditions for the period of 6 months immediately preceding [<sup>F3</sup>the date of the claim or, if later, the first date on which he is terminally ill] (so however that no allowance shall be payable by virtue of this sub-paragraph for any period preceding that date); and
  - (b) the period for which he is entitled to attendance allowance shall be [<sup>F4</sup>so much of the period for which he is terminally ill as does not fall before the date of the claim].
- (2) For the purposes of subsection (1) above—
- (a) a person is “terminally ill” at any time if at that time he suffers from a progressive disease and his death in consequence of that disease can reasonably be expected within 6 months; and
  - (b) where a person purports to make a claim for an attendance allowance by virtue of that subsection on behalf of another, that other shall be regarded as making the claim, notwithstanding that it is made without his knowledge or authority.

### Textual Amendments

- F2** Words in s. 66(1)(a)(i) substituted (12.1.2000) by S.I. 1999/3147 (N.I. 11), art. 63(2)(a); S.R. 1999/494, art. 2(3)
- F3** Words in s. 66(1)(a)(ii) substituted (12.1.2000) by S.I. 1999/3147 (N.I. 11), art. 63(2)(b); S.R. 1999/494, art. 2(3)
- F4** Words in s. 66(1)(b) substituted (12.1.2000) by S.I. 1999/3147 (N.I. 11), art. 63(2)(c); S.R. 1999/494, art. 2(3)

## 67 Exclusions by regulation.

- (1) Regulations may provide that, in such circumstances, and for such purposes as may be prescribed, a person who is, or is treated under the regulations as, undergoing treatment for renal failure in a hospital or other similar institution otherwise than as an in-patient shall be deemed not to satisfy or to be unlikely to satisfy the day attendance condition or the night attendance condition, or both of them.
- [<sup>F5</sup>(2) Regulations may provide that an attendance allowance shall not be payable in respect of a person for a period when he is a resident of a care home in circumstances in which any of the costs of any qualifying services provided for him are borne out of public or local funds under a specified enactment.
- (3) The reference in subsection (2) above to a care home is to an establishment that provides accommodation together with nursing or personal care.
- (4) The following are qualifying services for the purposes of subsection (2) above—

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- (a) accommodation,
  - (b) board, and
  - (c) personal care.
- (5) The reference in subsection (2) above to a specified enactment is to an enactment which is, or is of a description, specified for the purposes of that subsection by regulations.
- (6) The power to specify an enactment for the purposes of subsection (2) above includes power to specify it only in relation to its application for a particular purpose.]

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**Textual Amendments**

- F5** S. 67(2)-(6) substituted for s. 67(2) (8.10.2007 for specified purposes) by [Welfare Reform Act \(Northern Ireland\) 2007 \(c. 2\)](#), [ss. 54\(1\), 60\(1\)](#); S.R. 2007/429, art. 2(1)(c)

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