

1975 No. 1573

SOCIAL SECURITY

The Mobility Allowance Regulations 1975

Made - - - - 25th September 1975

Laid before Parliament 30th September 1975

Coming into Operation 1st October 1975

The Secretary of State for Social Services, in exercise of the powers conferred upon her by sections 37A, 79(1), 81, 82(5), 85, 114(1) and (2) and 119(3) and (4) of the Social Security Act 1975(a) as amended by sections 22(1) and (2) and 65(1) of, and paragraphs 47, 49, 51 and 52 of Schedule 4 to, the Social Security Pensions Act 1975(b), section 22(3) and (4) of the latter Act and of all other powers enabling her in that behalf, and after consultation with the Council on Tribunals as required by section 10(1) of the Tribunals and Inquiries Act 1971(c), hereby makes the following regulations which relate only to mobility allowance and are made consequentially on the introduction of that allowance:—

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Mobility Allowance Regulations 1975 and shall come into operation on 1st October 1975.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1975;

“allowance” means mobility allowance;

“child” means a person who is under the age of 16;

“local office” means any office appointed by the Secretary of State as a local office for the purposes of the Act or for the purposes of these regulations;

“medical authority” means a medical appeal tribunal, a medical board or any medical practitioner appointed or nominated for the purposes of these regulations by the Secretary of State.

(3) Reference in these regulations to a person’s father, mother, son, daughter, brother or sister shall include a reference to his step-father, step-mother, step-son, step-daughter, half-brother and step-brother, or half-sister and step-sister, as the case may be, and a person shall be treated as such a relative if he

(a) 1975 c. 14.

(b) 1975 c. 60.

(c) 1971 c. 62

is such a relative by adoption or would be such a relative if some person born illegitimate had been born legitimate.

(4) Except in so far as the context otherwise requires any reference in these regulations to—

- (a) a numbered section is to the section of the Act bearing that number;
- (b) a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number;
- (c) any provision made by or contained in any enactment or instrument shall be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which may re-enact or replace it with or without modifications.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(a) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

PART II

ENTITLEMENT

Entitlement conditions as to residence and presence in Great Britain

2.—(1) Subject to the following provisions of this regulation, the prescribed conditions as to residence or presence in Great Britain to be satisfied by any person in respect of any day for the purposes of section 37A shall be—

- (a) that he is ordinarily resident in Great Britain; and
- (b) that he is present in Great Britain; and
- (c) that he has been present in Great Britain for a period of, or periods amounting in the aggregate to, not less than 52 weeks in the 18 months immediately preceding that day; and
- (d) in the case of a person who, in respect of a period which includes that day, receives earnings or other emoluments which are exempt from United Kingdom income tax under any of the provisions specified in paragraph (2), or the spouse or son or daughter under the age of 16 of such a person, that he was present in Great Britain for a period of, or periods amounting in the aggregate to, 156 weeks in the period of 4 years immediately preceding the period in respect of which he first receives or received such emoluments.

(2) For the purposes of paragraph (1)(d), the relevant provisions, under which earnings or other emoluments may be exempted from United Kingdom income tax, are—

- (a) section 367 or sections 372 to 374 of the Income and Corporation Taxes Act 1970(b) (in this regulation hereafter referred to as the “Taxes Act”) which relate to exemption from income tax, etc. of visiting forces, staffs of allied headquarters and of Commonwealth and foreign representatives;
- (b) section 2 of, and Articles 34 or 37 of Schedule 1 to the Diplomatic Privileges Act 1964(c), or section 1 of, and Article 49 or 66 of Schedule 1 to the Consular Relations Act 1968(d) which relate to

(a) 1889 c. 63.
(c) 1964 c. 81.

(b) 1970 c. 10.
(d) 1968 c. 18.

- exemption from income tax, etc. of members of diplomatic missions and their staffs, etc., and of certain consular officers, etc.;
- (c) section 4 of the Arbitration (International Investment Dispute) Act 1966(a) which relates to status, immunities and privileges conferred by the Convention on the settlement of investment disputes between States and nationals of other States;
- (d) an Order in Council, statutory notice, or regulations, made or given under, or continuing to have effect by virtue of, any of the following enactments—
- (i) the Bretton Woods Agreements Act 1945(b), section 3 (status, immunities and privileges of the International Monetary Fund, the International Bank for Reconstruction and Development and Governors, Executive Directors, alternates, officers and employees of the Fund and Bank);
 - (ii) the Taxes Act, section 497 (relief from double taxation);
 - (iii) the Consular Relations Act 1968, section 3(1) (additional privileges and immunities accorded as a result of agreement) and section 12 (privileges and immunities in connection with Commonwealth and Irish establishments);
 - (iv) the International Finance Corporation Act 1955(c), section 3 (status, immunities and privileges of the International Finance Corporation, its Governors, Directors, alternates, officers and employees);
 - (v) the International Development Association Act 1960(d), section 3 (status, immunities and privileges of the Association, its Governors, Directors, alternates, officers and employees);
 - (vi) the Diplomatic Privileges Act 1964, section 2(6) (certain privileges and immunities admitted by, or certain additional privileges and immunities granted by, the receiving State);
 - (vii) the International Organisations Act 1968(e), sections 1, 2, 5, 6 and 12(5) and paragraphs 9, 15, 21 and 23 of Schedule 1 (privileges and immunities of certain international organisations and their officers, etc.);
 - (viii) the European Communities Act 1972(f), section 2(2) (giving effect to, inter alia, the Protocol on the Privileges and Immunities of the European Communities—Articles 12 to 15, 20 and 21).
- (3) For the purposes of paragraph (1)(b) and (1)(c), a person who is absent from Great Britain on any day shall be treated as being present in Great Britain—
- (a) if on that day he is—
 - (i) a merchant seaman within the meaning of the Family Allowances (Qualifications) Regulations 1969(g); or
 - (ii) a member of the forces within the meaning of those Regulations; or
 - (iii) living with such a member of the forces and is that member's spouse, son, daughter, father, father-in-law, mother or mother-in-law; or
 - (b) if his absence is, and when it began was, for a temporary purpose and has not lasted for a continuous period exceeding 26 weeks; or

(a) 1966 c. 41.

(c) 4 & 5 Eliz. 2 c. 5.

(e) 1968 c. 48.

(g) S.I. 1969/212 (1969 I, p. 543).

(b) 9 & 10 Geo. 6. c. 19.

(d) 1960 c. 35.

(f) 1972 c. 68.

- (c) where his absence is temporary and for the specific purpose of his being treated for incapacity, or a disabling condition, which commenced before he left Great Britain, during such period as the Secretary of State may allow having regard to the circumstances of the case.

(4) Paragraph (1)(d) shall not apply to any person, or his spouse, or son or daughter under the age of 16, in respect of a day if, in relation to the tax year immediately preceding the tax year in which that day falls, he proves that the amount of his earnings or other emoluments to which paragraphs (1)(d) refers was less than his total income as defined in section 528 of the Taxes Act.

Circumstances in which, for the purposes of section 37A, a person is or is not to be treated as suffering from physical disablement such that he is unable or virtually unable to walk

3.—(1) A person shall only be treated, for the purposes of section 37A, as unable to walk or virtually unable to do so, if his physical condition as a whole is such that, without having regard to circumstances peculiar to that person as to place of residence or as to place of, or nature of, employment,—

- (a) he is unable or virtually unable to walk; or
(b) the exertion required to walk would constitute a danger to his life or would be likely to lead to a serious deterioration in his health.

(2) A person shall not be treated, for the purposes of section 37A as unable to walk or virtually unable to do so if he is able to walk with a prosthesis or an artificial aid which he habitually wears or uses or if he would be able to walk if he habitually wore or used a prosthesis or an artificial aid which is suitable in his case.

Entitlement to an allowance in respect of weeks before that in which claim is received by Secretary of State

4.—(1) Where a person, by whom a claim for an allowance is made, requests the Secretary of State to treat the claim as having been received on a date earlier than the date on which it is received by the Secretary of State and satisfies the Secretary of State that the claim which has been sent by post has not been received in the ordinary course of post, the entitlement to an allowance of the person in respect of whom the claim is made shall be determined as if the claim had been received by the Secretary of State on such earlier date, being a date not more than 3 months before the date on which the claim is so received, as the Secretary of State may determine.

(2) Where, by virtue of regulation 6, a claim for an allowance, made by or in respect of a person not more than 3 months after the end of a previous period for which that person has been awarded an allowance, is treated as a claim for a period beginning immediately after the end of such previous period, the entitlement of that person to an award on that claim shall be determined as if the claim had been received by the Secretary of State immediately after the end of that previous period.

PART III

CLAIMS AND PAYMENTS

Claim and award for period beginning after the date on which the claim is received

5.—(1) A claim for an allowance may be made, or treated as made, for a period beginning on such date later than the date on which the claim is received,

being a date not more than 3 months after the date on which it is so received, as the Secretary of State may determine.

(2) Where an allowance has been awarded to any person for a period ending before the date on which he attains pensionable age, any further claim for an allowance by, or in respect of, that person received before the end of that period, shall be treated as made for a period beginning immediately after the end of that period.

(3) Where, in accordance with the foregoing provisions of this regulation, a claim is made or treated as made, for a period beginning after the date on which it is received—

- (a) the entitlement to an allowance of the person in respect of whom such claim is made shall be determined having regard to the physical disablement to which that person may be expected to be subject at the beginning of the period for which the claim is, or is treated as being, made; and
- (b) if it appears that the conditions for entitlement to an allowance will be satisfied from the beginning of such period, an award of an allowance, to be payable from that date, may be made subject to the condition that, when the allowance becomes payable in accordance with such award, the person in respect of whom such claim is made satisfies the requirements for entitlement to an allowance for which provision is made in section 37A or in these regulations; and if at any time during the period for which such an award is made, any of those requirements are found not to have been satisfied, the award shall be reviewed.

Claim received within 3 months after the end of a period for which allowance awarded

6. Where an allowance has been awarded to any person for a period ending before the date on which he attains pensionable age and no further claim for an allowance made by, or in respect of, that person has been received by the Secretary of State before the end of that period, any further claim so made, which is received or by virtue of regulation 4(1) is treated as received, by the Secretary of State on a date not more than 3 months after the end of that period, shall be treated as a claim for a period beginning immediately after the end of that period.

Obligations of persons in respect of whom allowances are claimed or awarded and disqualification for failure to comply

7.—(1) Subject to the following provisions of this regulation, every person, in respect of whom a claim for an allowance is made or to whom an allowance has been awarded, shall comply with every notice given to him by the Secretary of State which requires him either—

- (a) to submit himself to a medical examination by a medical authority for the purpose of determining any medical question as defined in regulation 13(1); or
- (b) to submit himself to such medical or other treatment as is available to him and is considered appropriate in his case by any medical authority to whose examination he has submitted himself in accordance with the foregoing provisions of this regulation; being treatment that may be expected to improve his condition so as to enable him to walk.

(2) Every notice given for the purpose of this regulation requiring a person to submit himself to medical examination shall be given in writing and shall

specify the time and place of examination and shall not require a person to submit himself to examination on a date earlier than the third day after the day on which the notice is sent.

(3) Every person who, in accordance with the foregoing provisions of this regulation, is required to submit himself to a medical examination shall attend at every such place and at every such time as may be required.

(4) Every person in respect of whom a claim for an allowance is made or to whom an allowance is awarded who, without good cause, fails to comply with any requirement of this regulation shall, if the insurance officer, local tribunal or the Commissioner so decide, be disqualified for receiving any allowance in respect of the period of such failure:

Provided that—

- (a) nothing in this regulation shall authorise the disqualification of any person for receiving an allowance for a period exceeding 6 weeks on any disqualification; and
- (b) no person shall be disqualified for receiving any allowance for refusal to undergo a surgical operation not being one of minor character.

Cases where allowance not to be payable

8. An allowance shall not be payable to any person who would otherwise be entitled thereto in respect of any period—

- (a) during which that person has the use of an invalid carriage or other vehicle provided by the Secretary of State under section 33 of the Health Services and Public Health Act 1968(a):

Provided that a person who has notified the Secretary of State that he no longer wishes to use such invalid carriage or other vehicle and has signed an undertaking that he will not use it whilst it remains in his possession awaiting collection, shall be treated, for the purposes of this regulation, as not having the use of such invalid carriage or other vehicle;

- (b) in respect of which that person has received, or is receiving, any payment by way of grant under the said section 33 towards the cost of running a private car or any payment out of public funds which the Secretary of State is satisfied is analogous thereto:

Provided that where a person in respect of whom an allowance is claimed for any period has received any such payment for a period which, in whole or in part, covers the period for which the allowance is claimed, such payment shall be treated as an aggregate of equal weekly amounts in respect of each week in the period for which it is made and, where in respect of any such week a person is treated as having a weekly amount so calculated which is less than the weekly rate of allowance specified in paragraph 3A of Part III of Schedule 4 to the Act, any allowance to which that person may be entitled for that week shall be payable at a weekly rate reduced by the weekly amount so calculated.

Time and manner of payment of allowance

9.—(1) Subject to the provisions of this regulation, an allowance shall be paid by means of benefit orders payable in each case to the person entitled to the allowance at such place as the Secretary of State, after enquiry of the person so entitled, may from time to time specify.

(2) The Secretary of State shall arrange for the issue, to every person entitled to an allowance, of a fresh book of benefit orders on the expiration of the previous book.

(3) Where the date from which a person becomes entitled to an allowance is not a Wednesday, payment of that allowance shall commence only as from the Wednesday next following that day.

(4) The Secretary of State shall arrange for sums on account of an allowance to be payable on Wednesdays at such intervals of time, being not longer than intervals of 4 weeks, as he may in any case determine.

(5) Where the date on which an allowance would cease to be payable is a day of the week other than Tuesday, the allowance shall continue to be payable in respect of the days of the week up to, but not including, the next Wednesday.

(6) A book of benefit orders issued to any person shall remain the property of the Secretary of State.

(7) Any person having a book of benefit orders or any unpaid allowance order shall, on the termination of the allowance, or when requested by the Secretary of State, deliver such book or order to the Secretary of State or to such other person as he may direct.

(8) Notwithstanding anything contained in the foregoing provisions of this regulation, the Secretary of State may in any particular case, or class of cases, arrange for the payment of an allowance otherwise than by means of benefit orders payable to the person entitled to the allowance.

Removal of disqualification for receipt of allowance during absence from Great Britain

10. In the Social Security Benefit (Persons Abroad) Regulations 1975(a) after regulation 10 of those regulations (removal of disqualification for receiving attendance allowance during absence from Great Britain) there shall be inserted the following regulation:—

“Modification of the Act in relation to mobility allowance

10A. A person shall not be disqualified for receiving mobility allowance by reason of being absent from Great Britain.”

Amendment of the Overlapping Benefits Regulations

11. In the Social Security (Overlapping Benefits) Regulations 1975(b) there shall be added at the end of regulation 3(2) thereof (benefits of which, or by reference to which, adjustment not required where other benefits payable) the following sub-paragraph:—

“(g) mobility allowance.”.

PART IV

DETERMINATION OF CLAIMS AND QUESTIONS

Application of Part III of the Act and regulations to any question arising in connection with an allowance

12. The provisions of Part III of the Act (determination of claims and questions) and of any regulations made in the exercise of any power in that Part or in any enactment which that Part re-enacts or replaces, shall apply, as appropriate, to the determination of any question arising in connection with an allowance, subject to the modifications, additions and exclusions set out in the following provisions of this Part of these regulations.

(a) S.I. 1975/563 (1975 I, p. 2052).

(b) S.I. 1975/554 (1975 I, p. 1918).

Reference of medical questions for report

13.—(1) In these regulations any question arising in connection with a claim for or award of allowance—

- (a) whether a person is suffering from physical disablement such that he is either unable to walk or virtually unable to do so; or
- (b) whether such inability or virtual inability to walk is likely to persist for at least 12 months from a specified date; or
- (c) for what period, being a period limited by reference either to the person's attaining pensionable age or to a definite earlier date, the person may be expected to continue to be unable, or virtually unable, to walk; or
- (d) whether during most of the period during which a person may be expected to continue to be unable, or virtually unable to walk, his condition will be such as permits him from time to time to benefit from enhanced facilities for locomotion,

is referred to as a medical question.

(2) Subject to the provisions of regulation 14 and of regulation 17(2), if a medical question arises in any case, the insurance officer shall forthwith refer that question for examination and report to one or more medical practitioners.

Power to dispense with reference for report

14.—(1) The insurance officer may determine a medical question without referring it as provided in regulation 13(2) if he is satisfied that such question should be determined in favour of the person in respect of whom an allowance is claimed and that such reference can be dispensed with having regard to—

- (a) the report of a medical examination made in connection with an application to be supplied with an invalid carriage or other vehicle, or a payment by way of grant under section 33 of the Health Services and Public Health Act 1968; or
- (b) a report made, or evidence obtained, in connection with a claim for—
 - (i) an attendance allowance;
 - (ii) injury benefit or disablement benefit (including any increase of such benefit); or
 - (iii) a war disablement pension as defined in regulation 1(2) of the Family Income Supplements (General) Regulations 1971(a).

(2) If the insurance officer is of the opinion that the claim or question submitted to him or any part thereof can be disposed of without determining any medical question he may determine that an award cannot be made or may determine the question submitted to him accordingly without referring such medical question for report as aforesaid or before so referring it.

(3) If, within 21 days of a determination that an award of an allowance cannot be made to any person, a further claim is received in respect of that person, any medical question arising on such claim, instead of being referred for report as aforesaid, shall be referred for decision to the medical board.

(4) The provisions of regulation 13(2) and of the foregoing paragraphs of this regulation shall apply to a local tribunal and the Commissioner as they apply to an insurance officer with this modification, that a local tribunal or the Commissioner, instead of themselves or himself referring a medical question to a medical practitioner in accordance with regulation 13, shall direct the insurance officer to refer it to a medical board.

(a) S.I. 1971/226 (1971 I, p. 662).

Procedure on receipt of report

15.—(1) If a medical question has been referred as provided by regulation 13(2), the insurance officer shall, subject to the provisions of paragraph (3), proceed with the consideration of that question as soon as possible after he has received the report of the medical practitioner or practitioners to whom it was so referred.

- (2) On consideration of the question so referred, the insurance officer may—
- (a) himself determine the question in favour of the person in respect of whom the allowance is claimed; or
 - (b) himself determine the question adversely to the person in respect of whom the allowance is claimed; or
 - (c) refer the question to a medical board for their decision.

(3) Subject to the provisions of these regulations, the provisions of sections 100, 103 and 104 shall apply as if the medical question were a disablement question in relation to industrial injuries benefit and as if reference in those sections to the determination of, or to the review of the decision of, either of the disablement questions in relation to industrial injuries benefit included references to the determination of, or to the revision of the decision of, a medical question under these regulations.

Notification of decision and right of appeal

16.—(1) Where under the provisions of regulation 15 an insurance officer has determined a medical question adversely to the person in respect of whom an allowance is claimed, that person shall be notified in writing of the decision and of the reasons therefor and of his right of appeal therefrom.

(2) A person in respect of whom an allowance is claimed who desires to appeal from any decision of an insurance officer such as is mentioned in paragraph (1) shall do so by giving to a local office notice of appeal within 21 days after he has been notified of the insurance officer's decision:

Provided that a notice of appeal given after the expiration of the said period of 21 days may be accepted if the Secretary of State is of the opinion that there was good cause for the delay.

Appeal or reference to medical board

17.—(1) As soon as practicable after receiving notice of appeal given under the provisions of regulation 16, the insurance officer shall refer the question to a medical board for their decision.

(2) If, in any case, a medical question arises which the insurance officer is satisfied should be referred for decision by a medical board instead of being first referred as provided by regulation 13(2), or if he is directed in accordance with regulation 14(4) to refer a medical question to a medical board, he shall forthwith refer that question to a medical board for their decision.

Appeal or reference to medical appeal tribunal

18.—(1) If a person in respect of whom an allowance is claimed is dissatisfied with the decision of a medical board on a medical question, he may appeal and the case shall be referred to a medical appeal tribunal.

(2) If the Secretary of State notifies the insurance officer that he is of the opinion that any decision of a medical board on a medical question ought to be considered by a medical appeal tribunal, the insurance officer shall refer the case to a medical appeal tribunal for their consideration and the tribunal may confirm, reverse or vary the decision as on an appeal.

(3) Where a medical question is referred to a medical appeal tribunal under the foregoing provisions of this regulation, the tribunal, upon determining the question referred, may proceed to determine any other medical question which arises in connection therewith and, where a decision on any such question has been given by a medical board, may confirm, reverse or vary that decision.

Modification of section 112(1)

19. Section 112 (appeal etc. on question of law to Commissioner) shall apply to an appeal from any decision of a medical appeal tribunal on a medical question subject to the modification that for paragraph (b) of subsection (1) of that section there shall be substituted the following paragraph:—

“(b) a trade union of which the claimant is a member at the time of the appeal and was so immediately before the question at issue arose;”.

Review of decision on medical question

20.—(1) Any decision on a medical question of an insurance officer, medical board or medical appeal tribunal may be reviewed at any time by a medical board if—

- (a) the medical board are satisfied, in the case of a decision of a medical appeal tribunal by fresh evidence, that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
- (b) there has been any relevant change of circumstances since the decision was given.

(2) A question may be raised with a view to the review of any decision on a medical question by means of an application in writing to an insurance officer, stating the grounds of the application, and on receipt of such application the insurance officer shall refer such question to a medical board.

(3) A medical board may deal with a case on review in any manner in which they would deal with it on an original reference to them, except that on such review any medical question arising in connection with a person's entitlement to an allowance shall be determined as at the date when the application for review is made, and regulation 18 shall apply to a decision of a medical board in connection with such an application to review as it applies to a decision on an original reference to them.

PART V

MISCELLANEOUS

Children

21.—(1) Regulation 26 of the Social Security (Claims and Payments) Regulations 1975(a) (persons unable to act) shall apply in relation to an allowance as if any reference in that regulation to a child (for which the relevant definition is contained in Schedule 20 to the Act) were omitted.

(2) In any case where a claim for an allowance for a child is received by the Secretary of State, he shall, in accordance with the following provisions of this regulation, appoint a person to exercise, on behalf of that child, any right to which he may be entitled under the Act in connection with an allowance and to receive and deal on his behalf with any sums payable by way of an allowance.

(a) S.I. 1975/560 (1975 I, p. 2014).

(3) Subject to the following provisions of this regulation, a person who, in any case, shall be appointed by the Secretary of State by virtue of this regulation to act on behalf of the child shall—

- (a) be a person with whom the child is living; and
- (b) be over the age of 18; and
- (c) be either the father or mother of the child, or, if the child is not living with either parent, be such other person as the Secretary of State may determine; and
- (d) have given such undertaking as may be required by the Secretary of State as to the use, for the child's benefit, of any allowance paid.

(4) For the purposes of sub-paragraph (a) of paragraph (3), a person with whom a child has been living shall, subject to the provisions of paragraph (5) and to the power of the Secretary of State to determine in any case that the provisions of this paragraph should not apply, be treated as continuing to live with that child during any period—

- (a) during which that person and the child are separated but such separation has not lasted for a continuous period exceeding 8 weeks; or
- (b) during which the child is absent and undergoing full time instruction in a school within the meaning of regulation 15 of Family Allowances (Qualifications) Regulations 1969; or
- (c) during which the child is absent and undergoing medical or other treatment as an in-patient in a hospital or similar institution; or
- (d) during such other period as the Secretary of State may in any particular case determine,

so however that where the absence of the child has lasted for a continuous period of 26 weeks that person shall only be treated as continuing to live with a child who is absent in the circumstances specified in sub-paragraph (b) or (c) of this paragraph if he satisfies the Secretary of State, in such form and on such occasions as the Secretary of State may require, that he has incurred, or has undertaken to incur, expenditure for the benefit of the child of an amount not less than the allowance payable in respect of such period of absence.

(5) Where a child, in respect of whom an allowance is payable, is, by virtue of any provision of an Act of Parliament—

- (a) committed to, or received into the care of, a local authority; or
- (b) subject to a supervision requirement and residing in a residential establishment under arrangements made by a local authority in Scotland;

any appointment made under the foregoing provisions of this regulation shall terminate forthwith:

Provided that, when a child is committed to, or received into, care or is made subject to a supervision requirement for a period which is, and when it began was, not intended to last for more than 8 weeks the appointment shall not terminate by virtue of this paragraph until such period has lasted for 8 weeks.

(6) In any case where, by virtue of the provisions of paragraph (5), an appointment on behalf of any child in the care of, or subject to a supervision requirement under arrangements made by, a local authority is terminated, the Secretary of State may, upon application made to him by that local authority or by an officer of such authority nominated for the purpose by that authority, appoint the local authority or nominated officer thereof or appoint such other

person as he may, after consultation with the local authority, determine, to exercise on behalf of the child any right to which that child may be entitled under the Act in connection with the allowance and to receive and deal on his behalf with any sums payable to him by way of an allowance for any period during which he is in the care of, or, as the case may be, subject to a supervision requirement under arrangements made by, that authority.

(7) Where a child is undergoing medical or other treatment as an in-patient in a hospital or similar institution and there is no other person to whom an allowance may be payable by virtue of an appointment made in accordance with the foregoing provisions of this regulation, the Secretary of State may, upon application made to him by the health authority or, as the case may be social services authority, controlling the hospital or similar institution in which the child is an in-patient, or by an officer of that authority nominated for the purpose by the authority, appoint that authority or the nominated officer thereof or such other person as the Secretary of State may, after consultation with that authority, determine, to exercise on behalf of the child any right to which that child may be entitled under the Act in connection with the allowance and to receive and deal on his behalf with any sums payable to him by way of an allowance for any period during which he is an in-patient in a hospital or similar institution under the control of that authority.

(8) For the purposes of this regulation:—

“health authority” means, in relation to England and Wales, an Area Health Authority(a) and, in relation to Scotland, a Health Board(b):

“hospital or similar institution” means any premises for the reception of and treatment of persons suffering from any illness, including any mental disorder, or of persons suffering from physical disability, and any premises used for providing treatment during convalescence or for medical rehabilitation;

“local authority” means, in relation to England and Wales, a local authority as defined in the Local Government Act 1972(c) and, in relation to Scotland, a local authority as defined in the Local Government (Scotland) Act 1973(d);

“social services authority” means—

(a) in relation to England and Wales, the social services committee established by a local authority under section 2 of the Local Authority Social Services Act 1970(e); and

(b) in relation to Scotland, the social work committee established by a local authority under section 2 of the Social Work (Scotland) Act 1968(f).

Suspension of payment of allowance pending appeal or reference

22.—(1) Regulation 13 of the Social Security (General) Benefit Regulations 1974(g) (interim payments, arrears and repayments) shall be amended by inserting—

(a) in paragraph (1) of that regulation, after the words “subject to the provisions of this regulation” the words “and regulation 22(2) of the Mobility Allowance Regulations 1975”; and

(a) See the National Health Service Reorganisation Act 1973, c. 32.

(b) See the National Health Service (Scotland) Act 1972, c. 58.

(c) 1972 c. 70.

(d) 1973 c. 65.

(e) 1970 c. 42.

(f) 1968 c. 49.

(g) S.I. 1974/2079 (1974 III, p. 8113).

- (b) in paragraph (2) of that regulation (suspension of payment of certain benefits pending appeal by insurance officer to the Commissioner) after the words “ an attendance allowance ” in sub-paragraph (b) the words “ a mobility allowance ”.

(2) In any case where, in accordance with the provisions of regulation 18(2), the Secretary of State notifies the insurance officer that he is of the opinion that the decision of the medical board on a medical question ought to be considered by a medical appeal tribunal, or where notice is sent to the person by whom an allowance is claimed of notice of appeal by the Secretary of State to the Commissioner from a decision of a medical appeal tribunal on a medical question on the ground that such decision is erroneous in point of law, payment of the allowance in accordance with any award based upon such a decision of a medical board, or as the case may be such decision of a medical appeal tribunal, shall be suspended until the reference to the medical appeal tribunal, or as the case may be the appeal to the Commissioner, has been determined.

Repayment of allowances paid to a person on behalf of another

23.—(1) In relation to payments by way of mobility allowance in respect of any person paid not to him but to some other person on his behalf, section 119 shall have effect subject to the modifications set out in the following paragraphs of this regulation.

- (2) At the end of subsection (1) of section 119 there shall be added:—
“ and repayment shall be required—

- (i) if it was paid to a person as in his or her own right by that person, or
- (ii) if it was paid to a person as on behalf of another, either by that person or by that other person ”.

(3) In subsection (2) of section 119 after the words “ shall not require repayment ” there shall be inserted the words “ by a person ” and for the words “ the beneficiary and any person acting for him ” there shall be substituted the words “ that person ”.

Allowances taken into account under Supplementary Benefit Act

24. A payment to or in respect of any person by way of an allowance and the right to receive such payment shall be taken into account in determining whether any award of benefit under the Supplementary Benefit Act 1966(a) should be made by virtue of paragraph 4(1) of Schedule 2 to that Act to provide for the requirements of that person in exceptional circumstances relating to that person's inability or virtual inability to walk.

Barbara Castle,

Secretary of State for Social Services.

25th September 1975.

(a) 1966 c. 20, and see the Social Security (Consequential Provisions) Act 1975 (c. 18), Schedule 2, paragraph 30.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations contain provisions relating to mobility allowance introduced by the Social Security Pensions Act 1975.

The Regulations prescribe the conditions relating to residence and presence in Great Britain for entitlement to a mobility allowance and they also prescribe the circumstances in which a person is and is not to be treated, for the purposes of such allowance, as unable or virtually unable to walk.

The Regulations contain provisions relating to claims for, and payment of, mobility allowance and to the determination of such claims and of questions arising in connection with the allowance. A special procedure, similar to that for dealing with questions whether a person is suffering or has suffered from a prescribed industrial disease, is provided for dealing with such questions as whether a person is unable or virtually unable to walk, the period during which such inability is likely to persist and whether a person's condition is such as permits him to benefit from enhanced facilities for locomotion.

The Regulations also contain provisions as to the appointment of persons to act on behalf of children, the suspension of payment of allowances pending appeals or references, the recovery of overpayments and the taking into account of any right to mobility allowance in calculating an award of supplementary benefit in exceptional circumstances related to a person's want of mobility.

The Regulations relate only to mobility allowance and are made consequentially on the introduction of that allowance and accordingly, by virtue of section 22(6) of the Social Security Pensions Act 1975, they are not required to be, and have not been, referred to the National Insurance Advisory Committee.

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