

1983 No. 1741

SOCIAL SECURITY

The Social Security (Attendance Allowance) Amendment (No. 3) Regulations 1983

<i>Made</i>	- - -	23rd November 1983
<i>Laid before Parliament</i>		5th December 1983
<i>Coming into Operation</i>		26th December 1983

The Secretary of State for Social Services, in exercise of the powers conferred on him by section 35(6) of the Social Security Act 1975 (a) and of all other powers enabling him in that behalf, hereby makes the following regulations which relate only to matters which, in accordance with that Act, have been referred to the Attendance Allowance Board.

Citation and Commencement

1. These regulations may be cited as the Social Security (Attendance Allowance) Amendment (No. 3) Regulations 1983 and shall come into operation on 26th December 1983.

Amendment of the Social Security (Attendance Allowance) (No. 2) Regulations 1975

2.—(1) The Social Security (Attendance Allowance) (No. 2) Regulations 1975 (b) (hereinafter referred to as “the principal regulations”) shall be amended in accordance with the following provisions of this regulation.

(2) Regulation 1 (citation, commencement and interpretation) shall be amended in the following manner—

(a) after the definition of “child” there shall be inserted the following definition—

“ ‘Scheduled enactment’ means any enactment referred to in the Schedule to these regulations.”.

(b) after paragraph (2) the following paragraph (2A) shall be inserted—

“(2A) For the purposes of regulations 4 and 7(1)(b) references to the cost of the accommodation shall not include the cost of—

(a) domiciliary services provided in respect of a person or child in a private dwelling; or

(b) improvements made to, or furniture or equipment provided for, a private dwelling on account of the needs of a person or child under disability; or

(a) 1975 c.14; section 35(6) was amended by paragraph 63 of Schedule 15 to the National Health Service Act 1977 (c.49).

(b) S.I. 1975/598; the relevant amending instruments are S.I. 1977/1361, 1979/1684, 1983/1015, 1137.

- (c) improvements made to, or furniture or equipment provided for, residential homes or other homes or premises in respect of which a grant or payment has been made out of public or local funds except where the grant or payment is of a regular or repeated nature; or
- (d) social and recreational activities provided outside the accommodation in respect of which grants or payments are made out of public or local funds; or
- (e) the purchase or running of a motor vehicle to be used in connection with the accommodation in respect of which grants or payments are made out of public or local funds; or
- (f) such other services, amenities and requisites as the Secretary of State may direct.”.

(3) For regulation 4 (adults in certain accommodation other than hospitals) the following regulation shall be substituted—

“Adults in certain accommodation other than hospitals

4.—(1) Except in the cases specified in paragraphs (2) and (3) and subject to regulation 5, attendance allowance shall not be payable in respect of a person who has attained the age of 16 for any period during which that person is living in accommodation—

- (a) provided for him in pursuance of Part III of the National Assistance Act 1948 (a), paragraph 2 of Schedule 8 to the National Health Service Act 1977 (b), or Part IV of the Social Work (Scotland) Act 1968 (c); or
- (b) provided for him in circumstances in which the cost of the accommodation is being borne wholly or partly out of public or local funds in pursuance of a Scheduled enactment; or
- (c) provided for him in circumstances in which the cost of the accommodation may be borne wholly or partly out of public or local funds in pursuance of a Scheduled enactment.

(2) Paragraph (1) shall not apply in the case of a person under the age of 18, who is provided with accommodation in a private dwelling in pursuance of section 21(1)(b) of, and paragraph 2 of Schedule 8 to, the National Health Service Act 1977.

(3) Paragraph (1)(c) shall not apply in respect of the following accommodation—

- (a) temporary accommodation provided for the homeless;
- (b) accommodation in such other case or class of case as the Secretary of State may direct.”.

(4) In regulation 7 (children in hospital and certain other accommodation)—

- (a) for paragraph (1)(b) there shall be substituted—
“(b) the child is living in accommodation—

(a) 1948 c.29.

(b) 1977 c.49; paragraph 2 was amended by the Mental Health (Amendment) Act 1982 (c.51), Schedule 3, paragraph 76.

(c) 1968 c.49.

- (i) provided for him in pursuance of Part III of the National Assistance Act 1948, paragraph 2 of Schedule 8 to the National Health Service Act 1977, or Part IV of the Social Work (Scotland) Act 1968, or
 - (ii) provided for him in circumstances in which the cost of the accommodation is being borne wholly or partly out of public or local funds in pursuance of a Scheduled enactment, or
 - (iii) provided for him in circumstances in which the cost of the accommodation may be borne wholly or partly out of public or local funds in pursuance of a Scheduled enactment; or”;
- (b) after paragraph (1) the following paragraphs shall be inserted—
- “(1A) Paragraph (1)(b) shall not apply in the case of a child who is provided with accommodation in a private dwelling in pursuance of section 21(1)(b) of, and paragraph 2 of Schedule 8 to, the National Health Service Act 1977.
- (1B) Paragraph (1)(b)(iii) shall not apply in respect of the following accommodation—
- (a) temporary accommodation provided for the homeless; or
 - (b) accommodation in such other case or class of case as the Secretary of State may direct.”.

(5) For the Schedule there shall be substituted the Schedule to these regulations.

Signed by authority of the Secretary of State for Social Services.

Rhodes Boyson,
Minister of State,
Department of Health and Social Security.

23rd November 1983.

SCHEDULE

Regulation 2(5)

Schedule substituted for the Schedule to the principal regulations.

THE SCHEDULE

Regulations 4 and 7(1)(b)

1 Chapter	2 Short title	3 Enactments
1933 c. 12	The Children and Young Persons Act 1933	Section 53
1944 c. 10	The Disabled Persons (Employment) Act 1944	Section 15
1944 c. 31	The Education Act 1944	Sections 9(1), 33(2), 34(4), 41, 42 and 50
1948 c. 29	The National Assistance Act 1948	Part III
1953 c. 33	The Education (Miscellaneous Provisions) Act 1953	Section 6(2)(b)
1968 c. 49	The Social Work (Scotland) Act 1968	Sections 12, 15, 21 (except sub-section (1)(a)), 37(2), (4), (5), (5A) and (5B), 40(4), (7), (8), (8A) and (8B), 43(4), 44, 45 and 59(1).
1969 c. 54	The Children and Young Persons Act 1969	Sections 23 and 28
1973 c. 50	The Employment and Training Act 1973	Section 2(1) and (2)(d)
1975 c. 21	The Criminal Procedure (Scotland) Act 1975	Sections 14(1), 24(1), 206(1); 296(3), 297(1), 323(1) and 413.
1977 c. 49	The National Health Service Act 1977	Section 21(1)(b) and paragraph 2 of Schedule 8.
1978 c. 29	The National Health Service (Scotland) Act 1978	Section 37
1980 c. 5	The Child Care Act 1980	Sections 2, 21 (except sub-section (1)(a)) and 72.
1980 c. 44	The Education (Scotland) Act 1980	Sections 1 and 2.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Social Security (Attendance Allowance) (No. 2) Regulations 1975 (the principal regulations) in the following respects:—

(1) Regulation 2(2) amends regulation 1 of the principal regulations so as to provide that in determining whether the cost of a person or child's accommodation is (or may be) borne out of public or local funds for the purposes of regulations 4 and 7(1)(b) the cost of the following improvements and services are to be ignored;

- (a) domiciliary services provided in a private dwelling;
- (b) improvements to or furniture or equipment for a private dwelling on account of the needs of a disabled person; or
- (c) improvements to or furniture or equipment for a residential home for which a single grant has been made out of public funds; or
- (d) certain social and recreational activities; or
- (e) the purchase or running of a motor vehicle; or
- (f) such other matters as the Secretary of State shall direct.

(2) Regulation 2(3) substitutes a new regulation 4 for regulation 4 in the principal regulations (adults living in certain accommodation other than hospitals). It restates the existing rule that where a person is living in accommodation provided under Part III of the National Assistance Act 1948, Schedule 8, paragraph 2, of the National Health Service Act 1977, or Part IV of the Social Work (Scotland) Act 1968, or where the cost of his accommodation is or may be borne out of public or local funds under an enactment specified in the Schedule to the principal regulations, attendance allowance shall not be payable. But the new regulation 4(3) creates exceptions for (a) temporary accommodation for the homeless and (b) such other accommodation as the Secretary of State may direct.

(3) Regulation 2(4) amends regulation 7 of the principal regulations (children in certain accommodation other than hospitals) so as to do for children under 16 what the new regulation 4 does for adults.

(4) Regulation 2(5) substitutes a new Schedule of enactments for the existing Schedule.

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