STATUTORY RULES OF NORTHERN IRELAND

2011 No. 356

SOCIAL SECURITY

The Social Security (Disability Living Allowance, Attendance Allowance and Carer's Allowance) (Miscellaneous Amendments) Regulations (Northern Ireland) 2011

Made - - - -	*10th October 2011*
Coming into operation	*31st October 2011*

The Department for Social Development is designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to social security(**2**).

Accordingly the Department for Social Development makes these Regulations in exercise of the powers conferred by section 2(2) of that Act, sections 75(1) and 171(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**3**), sections 5(1)(b) and 165(4) of the Social Security Administration (Northern Ireland) Act 1992(**4**) and Articles 11(6) and 74(3) of the Social Security (Northern Ireland) Order 1998(**5**) and now vested in it(**6**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Disability Living Allowance, Attendance Allowance and Carer's Allowance) (Miscellaneous Amendments) Regulations (Northern Ireland) 2011 and shall come into operation on 31st October 2011.

Amendment of the Social Security Contributions and Benefits (Northern Ireland) Act

2.—(1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992 is amended in accordance with paragraphs (2) to (5).

(2) In section 65 (attendance allowance: period and rate of allowance), after subsection (6) add—

(**1**) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7)
(**2**) S.I. 2010/2473
(**3**) 1992 c. 7; section 75(1) was amended by paragraph 39 of Schedule 1 to the Pensions Act (Northern Ireland) 2008 (c. 1 (N.I.)); *see also* section 11(3) of that Act
(**4**) 1992 c. 8
(**5**) S.I. 1998/1506 (N.I. 10)
(**6**) *See* Article 8(b) of S.R. 1999 No. 481

"(7) A person to whom either Regulation (EC) No 1408/71(**7**) or Regulation (EC) No 883/2004(**8**) applies shall not be entitled to an attendance allowance for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of Chapter 1 of Title III of the Regulation in question.".

(3) In section 70 (carer's allowance), after subsection (4) insert—

"(4A) A person to whom either Regulation (EC) No 1408/71 or Regulation (EC) No 883/2004 applies shall not be entitled to an allowance under this section for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of Chapter 1 of Title III of the Regulation in question.".

(4) In section 72 (disability living allowance: the care component), after subsection (7A)(**9**) insert—

"(7B) A person to whom either Regulation (EC) No 1408/71 or Regulation (EC) No 883/2004 applies shall not be entitled to the care component of a disability living allowance for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of Chapter 1 of Title III of the Regulation in question.".

(5) In section 121(1) (interpretation of Parts I to VI), after the definition of "qualifying young person"(**10**) insert—

""Regulation (EC) No 1408/71" means Council Regulation (EC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community;

"Regulation (EC) No 883/2004" means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems;".

Amendment of the Social Security (Claims and Payments) Regulations

3. In regulation 6 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**11**) (date of claim), after paragraph (34) add—

"(35) A claim for attendance allowance or the care component of disability living allowance which is in respect of a period beginning on or before 18th October 2007 but which is made after that date, is to be treated as made on 18th October 2007 where—

(a) on or after 8th March 2001, the claimant had an award of that benefit;

(b) the Department made a superseding decision to end that award on the ground that there had been, or it was anticipated that there would be, a relevant change of circumstances as a result of the claimant's moving, or planning to move, from Northern Ireland to an EEA State or Switzerland;

(c) that superseding decision was confirmed on appeal; and

(d) the claimant has not received an extra-statutory payment in respect of the benefit being claimed.

(36) A claim for carer's allowance which is in respect of a period beginning on or before 18th October 2007 but which is made after that date, is to be treated as made on 18th October 2007 where—

(a) on or after 8th March 2001, the claimant had an award of that benefit;

(**7**) OJ L 28 of 30.1.1997, p.1
(**8**) OJ L 166, 30.4.2004, p.1 as amended by Regulation (EC) No. 988/2009 (OJ L 284, 30.10.2009, p. 43)
(**9**) Subsection (7A) was inserted by section 48(7) of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.))
(**10**) The definition of "qualifying young person" was inserted by paragraph 34(3) of Schedule 1 to the Child Benefit Act 2005 (c. 6)
(**11**) S.R. 1987 No. 465; paragraph (34) was substituted by regulation 2(4)(d) of S.R. 2008 No. 417