STATUTORY RULES OF NORTHERN IRELAND

1997 No. 355

SOCIAL SECURITY

The Social Security (Attendance Allowance and Disability Living Allowance) (Miscellaneous Amendments) Regulations (Northern Ireland) 1997

Made - - - -	*31st July 1997*
Coming into operation	*25th August 1997*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 28(3), 33(2), 55A, 59(1)(a)(ii) and (b) and (2) and 165(4), (5) and (6) of the Social Security Administration (Northern Ireland) Act 1992(**1**) and of all other powers enabling it in that behalf, by this statutory rule which contains only regulations made by virtue of, or consequential upon, Article 17 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997(**2**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Attendance Allowance and Disability Living Allowance) (Miscellaneous Amendments) Regulations (Northern Ireland) 1997 and shall come into operation on 25th August 1997.

(2) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to a Measure of the Assembly.

Amendment of the Social Security (Attendance Allowance) Regulations

2.—(1) The Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(**4**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) after the definition of "the Act" there shall be inserted the following definition—

> ""the Administration Act" means the Social Security Administration (Northern Ireland) Act 1992;".

(**1**) 1992 c. 8; section 55A was inserted by Article 17 of the Social Security Administration (Fraud) (Northern Ireland) Order 1997 (S.I. 1997/1182 (N.I. 11))
(**2**) S.I. 1997/1182 (N.I. 11)
(**3**) 1954 c. 33 (N.I.)
(**4**) S.R. 1992 No. 20; relevant amending regulations are S.R. 1994 No. 263

(3) After regulation 8B (exemption from regulation 8A)(**5**) there shall be inserted the following regulations—

"**Medical examination in prescribed circumstances**

8C.—(1) The prescribed circumstances in which a person who is awarded attendance allowance shall be required to attend for, or submit to, a medical examination, are where the Department is undertaking an investigation under section 28(7A) of the Administration Act (reviews of decisions of adjudication officers)(**6**).

(2) An examination under paragraph (1) shall be conducted by a medical practitioner who is—

(a) approved by the Department; or

(b) engaged by an organisation approved by the Department.

Withholding of benefit in prescribed circumstances

8D.—(1) Subject to paragraph (2), where a person who is receiving attendance allowance is required by the Department to attend for, or submit to, a medical examination under regulation 8C and fails to comply with that requirement on more than one occasion, that allowance may be withheld, in whole or in part, from a date, not earlier than the second such occasion, as the Department shall determine.

(2) Paragraph (1) shall not apply where—

(a) a person who is required to attend for, or submit to, a medical examination proves to the satisfaction of the Department that he has good cause for failing to comply with that requirement;

(b) a person who is required to attend for, or submit to, a medical examination produces such evidence as is acceptable to the Department in place of a medical examination; or

(c) the Department otherwise has available to it such evidence as is acceptable to it.

(3) For the purposes of paragraph (2)(*a*), the matters which are to be taken into account in determining whether a person has good cause shall include—

(a) whether he was outside Northern Ireland at the relevant time;

(b) his state of health at the relevant time; and

(c) the nature of any disability from which he suffers.

Payment of withheld benefit

8E.—(1) Where the Department is satisfied that no question arises in connection with its investigation referred to in regulation 8C(1), payment of the amount withheld and the attendance allowance shall be made forthwith.

(2) Where a question arose in connection with an investigation referred to in regulation 8C(1) in respect of which—

(a) the Department made an application for the review of a person's entitlement to attendance allowance under section 28 of the Administration Act; and

(b) an adjudication officer has made a determination,

(**5**) Regulations 8A and 8B were inserted by regulation 2(4) of S.R. 1994 No. 263
(**6**) Subsection (7A) was inserted by Article 16(1) of the Social Security Administration (Fraud) (Northern Ireland) Order 1997

payment of the attendance allowance shall be made in accordance with the adjudication officer's determination, on review, of the person's entitlement.

(3) Where paragraph (1) or (2) does not apply and attendance allowance is withheld under regulation 8D for a period of more than 3 months, the Department shall—

(a) make, with a view to review, an application to the adjudication officer on the ground that the person failed to attend for, or submit to, medical examination; and

(b) make such payments as are determined, on review, by the adjudication officer.".

Amendment of the Social Security (Disability Living Allowance) Regulations

3. After regulation 5 of the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 (late claim by a person previously entitled to benefit)(**7**) there shall be inserted the following regulations—

"**Medical examination in prescribed circumstances**

5A.—(1) The prescribed circumstances in which a person who is awarded disability living allowance shall be required to attend for, or submit to, a medical examination, are where the Department is undertaking an investigation under section 28(7A) of the Administration Act (reviews of decisions of adjudication officers).

(2) An examination under paragraph (1) shall be conducted by a medical practitioner who is—

(a) approved by the Department; or

(b) engaged by an organisation approved by the Department.

Withholding of benefit in prescribed circumstances

5B.—(1) Subject to paragraph (2), where a person who is receiving disability living allowance is required by the Department to attend for, or submit to, a medical examination under regulation 5A and fails to comply with that requirement on more than one occasion, that allowance may be withheld, in whole or in part, from a date, not earlier than the second such occasion, as the Department shall determine.

(2) Paragraph (1) shall not apply where—

(a) a person who is required to attend for, or submit to, a medical examination proves to the satisfaction of the Department that he has good cause for failing to comply with that requirement;

(b) a person who is required to attend for, or submit to, a medical examination produces such evidence as is acceptable to the Department in place of a medical examination; or

(c) the Department otherwise has available to it such evidence as is acceptable to it.

(3) For the purposes of paragraph (2)(*a*), the matters which are to be taken into account in determining whether a person has good cause shall include—

(a) whether he was outside Northern Ireland at the relevant time;

(b) his state of health at the relevant time; and

(c) the nature of any disability from which he suffers.

(**7**) S.R. 1992 No. 32, to which there are amendments not relevant to these regulations