1992 No. 7

SOCIAL SECURITY

The Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1992

Made . . . . . 10th January 1992

Coming into operation in accordance with regulation 1(1)

The Department of Health and Social Services, in exercise of the powers conferred on it by Article 52(1)(*a*) to (*e*), (*g*) to (*j*), (*l*), (*m*), (*p*) and (*q*) of the Social Security (Northern Ireland) Order 1986(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Claims and Payments) (Amendment) Regulations (Northern Ireland) 1992 and shall come into operation as follows—

(*a*) for the purposes of regulations 1, 2, 4(*c*) and (*d*), 6(*a*), 7(1), 8, 10(*a*), 12, 16, 19 to 24, 25(*a*)(i) and (*b*) and 29 on 3rd February 1992;

(*b*) for the purposes of regulations 3, 4(*a*), (*b*) and (*e*), 5, 6(*b*), 7(2), 9, 10(*b*), 11, 15, 17, 25(*c*), 26 and 28 on 10th March 1992; and

(*c*) for all other purposes on 6th April 1992.

(2) In these regulations "the principal regulations" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**b**).

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) of the principal regulations (interpretation) in the definition of "long term benefits" for "mobility allowance" there shall be substituted "disability living allowance".

Amendment of regulation 4 of the principal regulations

3. In regulation 4 of the principal regulations (making a claim for benefit) after paragraph (3) there shall be inserted the following paragraph—

"(3A) In the case of a married or unmarried couple where both partners satisfy the conditions set out in Article 21(6A) of the Order(**c**), a claim for disability working allowance shall be made by whichever partner they agree should so claim or, in default of agreement, by such one of them as the Department shall in its discretion determine.".

(a) S.I. 1986/1888 (N.I. 18)

(b) S.R. 1987 No. 465; the relevant amending regulations are S.R. 1988 Nos. 141 and 369, S.R. 1989 No. 398, S.R. 1990 Nos. 137, 340 and 398 and S.R. 1991 No. 488

(c) Paragraph (6A) was inserted by Article 8(4) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991 (S.I. 1991/1712 (N.I. 17))

Amendment of regulation 6 of the principal regulations

4. In regulation 6 of the principal regulations (date of claim)—

(*a*) in paragraph (3) after "family credit" there shall be inserted ", disability working allowance";

(*b*) in paragraph (4) for "or family credit" there shall be substituted ", family credit or disability working allowance";

(*c*) in paragraph (5)—

(i) after "attendance allowance" there shall be inserted "or disability living allowance or a request as in paragraph (8)", and

(ii) for "claim" in the second and third place where it occurs there shall be substituted "claim or request";

(*d*) after paragraph (7) there shall be added the following paragraphs—

"(8) Where—

(*a*) a request is received in an appropriate office for a claim form for attendance allowance or disability living allowance; and

(*b*) in response to that request a claim form for attendance allowance or disability living allowance is issued from an appropriate office; and

(*c*) within the time specified the claim form properly completed is received in an appropriate office,

the date on which the claim is treated as made shall be the date on which the request was received in the appropriate office.

(9) In paragraph (8)—

"a claim form" means a form approved by the Department in accordance with regulation 4(1);

"properly completed" has the meaning assigned by regulation 4(8);

"the time specified" means 6 weeks from the date on which the request was received or such longer period as the Department may consider reasonable."; and

(*e*) after paragraph (9) there shall be added the following paragraphs—

"(10) Where a person starts a job on a Monday or Tuesday in any week and he makes a claim for disability working allowance in that week the claim shall be treated as made on the Tuesday of that week.

(11) Where a claim for disability working allowance in respect of a person has been refused and a further claim is made within the period prescribed under section 100A(1) of the Act(**a**) and that further claim is treated as an application for review in accordance with section 100A(12) of that Act then the original claim shall be treated as made on the date on which the further claim is made or treated as made.".

(**a**) 1975 c. 15; section 100A was inserted by paragraph 5 of Schedule 1 to the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991

Amendment of regulation 7 of the principal regulations

5. In regulation 7(3) of the principal regulations (evidence and information) after ''family credit'' there shall be inserted ''or disability working allowance''.

Amendment of regulation 13 of the principal regulations

6. In regulation 13(3) of the principal regulations (advance claims and awards)—

(*a*) for ''mobility allowance'' there shall be substituted ''disability living allowance''; and

(*b*) after ''family credit'' there shall be inserted '', disability working allowance''.

Insertion of regulations 13A and 13B into the principal regulations

7.—(1) After regulation 13 of the principal regulations (advance claims and awards) there shall be inserted the following regulation—

''*Advance award of disability living allowance*

13A.—(1) Where, although a person does not satisfy the requirements for entitlement to disability living allowance on the date on which the claim is made, the adjudicating authority is of the opinion that unless there is a change of circumstances he will satisfy those requirements for a period beginning on a day (''the relevanat day'') not more than 3 months after the date on which the claim is made, then that authority may award disability living alowance from the relevant day subject to the condition that the person satisfies the requirements for entitlement on the relevant day.

(2) Where a person makes a claim for disability living allowance on or after 3rd February 1992 and before 6th April 1992 the adjudicating authority may award benefit for a period beginning on any day after 5th April 1992 being a day not more than 3 months after the date on which the claim was made, subject to the condition that the person satisfies the requirements for entitlement when disability living allowance becomes payable under the award.

(3) An award under paragraph (1) or (2) shall be reviewed by the adjudicating authority if the requirements for entitlement are found not to have been satisfied when disability living allowance becomes payable under the award.''.

(2) After regulation 13A of the principal regulations (advance award of disability living allowance) there shall be inserted the following regulation—

''*Advance claim for and award of disability working allowance*

13B.—(1) Where a person makes a claim for disability working allowance on or after 10th March 1992 and before 7th April 1992 the adjudicating authority may—

(*a*) treat the claim as if it were made for a period beginning on 7th April 1992; and

(*b*) award benefit accordingly, subject to the condition that the person satisfies the requirements for entitlement on 7th April 1992.

(2) An award under paragraph (1)(*b*) shall be reviewed by the adjudicating authority if the requirements for entitlement are found not to have been satisfied on 7th April 1992.''.

Insertion of regulation 13C into the principal regulations

8. After regulation 13B of the principal regulations (advance claim for and award of disability working allowance) there shall be inserted the following regulation—

''*Further claim for and award of disability living allowance*

13C.—(1) A person entitled to an award of disability living allowance may make a further claim for disability living allowance during the period of 6 months immediately before the existing award expires.

(2) Where a person makes a claim in accordance with paragraph (1) the adjudicating authority may—

(*a*) treat the claim as if made on the first day after the expiry of the existing award (''the renewal date''); and

(*b*) award benefit accordingly, subject to the condition that the person satisfies the requirements for entitlement on the renewal date.

(3) An award under paragraph (2)(*b*) shall be reviewed by the adjudicating authority if the requirements for entitlement are found not to have been satisfied on the renewal date.''.

Amendment of regulation 16 of the principal regulations

9. In regulation 16 of the principal regulations (date of entitlement under an award for the purpose of determining the day from which benefit is to be payable and effective date of change of rate)—

(*a*) in paragraph (1A)—

(i) after ''paragraph 7(*a*)'' there shall be inserted ''or (*aa*)'', and

(ii) after ''family credit'' in the second place where it occurs there shall be inserted ''or disability working allowance'';

(*b*) in paragraph (1B) after ''family credit'' there shall be inserted ''or disability working allowance'';

(*c*) after paragraph (1B) there shall be inserted the following paragraph—

''(1C) Where a claim for disability working allowance is made in accordance with paragraph 11(*a*) or (*b*) of Schedule 4 for a period following the expiration of an existing award of disability working allowance or family credit, entitlement shall begin on the day after the expiration of that award.''; and

(*d*) in paragraph (3)(*b*) after ''family credit'' there shall be inserted ''or disability working allowance''.

Amendment of regulation 17 of the principal regulations

10. In regulation 17(1) of the principal regulations (duration of awards)—

(*a*) after ''regulation and of'' there shall be inserted ''section 37ZA(3) of the Act(**a**) (disability living allowance) and''; and

(*b*) for ''of the Order (family credit)'' there shall be substituted ''and (6F) of the Order(**b**) (family credit and disability working allowance)''.

Amendment of regulation 19 of the principal regulations

11. In regulation 19 of the principal regulations (time for claiming benefit)—

(*a*) in paragraph (3)(*b*) after ''family credit'' there shall be inserted ''or disability working allowance''; and

(*b*) in paragraph (4) after ''family credit'' there shall be inserted '', disability working allowance''.

Amendment of regulation 22 of the principal regulations

12. In regulation 22(1) of the principal regulations (long term benefits)—

(*a*) for ''regulation 21'' there shall be substituted ''regulations 21 and 25(1)''; and

(*b*) for ''mobility allowance'' there shall be substituted ''disability living allowance''.

Amendment of regulation 25 of the principal regulations

13. In regulation 25 of the principal regulations (payment of attendance allowance and constant attendance allowance at a daily rate)—

(*a*) in paragraph (1)—

(i) for the words preceding ''in respect of any person'' there shall be substituted—

''*Payment of attendance allowance, the care component of a disability living allowance and constant attendance allowance at a daily rate*

25.—(1) Attendance allowance or the care component of a disability living allowance shall be paid'', and

(ii) after ''attendance allowance'' in the second place where it occurs there shall be inserted ''or the care component of a disability living allowance'';

(*b*) in paragraph 2(*a*) for ''hospital or other accommodation specified in regulation 3, 4 or 11(1) of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1987'' there shall be substituted ''a hospital or other accommodation specified in regulations made under section 37ZB(8) of the Act(**c**) (''specified hospital or other accommodation'')'';

(**a**) Section 37ZA was inserted by Article 3(2) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991

(**b**) Paragraph (6F) was inserted by Article 8(4) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991

(**c**) Section 37ZB was inserted by Article 3(2) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991