1992 No. 6

SOCIAL SECURITY; HOUSING; RATES

The Disability Living Allowance and Disability Working Allowance (Consequential Provisions) Regulations (Northern Ireland) 1992

Made . . . . . 10th January 1992

Coming into operation in accordance with regulation 1

The Department of Health and Social Services in exercise of the powers conferred on it by Article 13(1) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991(**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 Disability Living Allowance and Disability Working Allowance (Consequential Provisions) Regulations (Northern Ireland) 1992 and shall, subject to paragraph (2), come into operation on 6th April 1992.

(2) Regulation 10 shall come into operation in relation to a particular claimant at the beginning of the first benefit week to commence for that claimant on or after 6th April 1992; and for this purpose the expressions "claimant" and "benefit week" have the same meanings as in the Income Support (General) Regulations (Northern Ireland) 1987(**b**).

Amendment of the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976

2. In regulation 9(2)(*b*) of the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976(**c**) (conditions relating to residence and presence in Northern Ireland) after "attendance allowance" there shall be inserted "or the care component of a disability living allowance at the highest or middle rate".

Amendment of the Social Security Pensions (Home Responsibilities and Miscellaneous Amendments) Regulations (Northern Ireland) 1978

3. In regulation 2(3) of the Social Security Pensions (Home Responsibilities and Miscellaneous Amendments) Regulations (Northern Ireland) 1978(**d**) (preclusion from regular employment for the purposes of

(**a**) S.I. 1991/1712 (N.I. 17)
(**b**) S.R. 1987 No. 459; relevant amending regulations are S.R. 1988 Nos. 146 and 318, S.R. 1989 No. 139, S.R. 1990 No. 346 and S.R. 1991 No. 338
(**c**) S.R. 1976 No. 99, to which there are amendments not relevant to these regulations
(**d**) S.R. 1978 No. 102; relevant amending regulations are S.R. 1988 No. 125

paragraph 5(6) and (7) of Schedule 3 to the Act) for ''other than in respect of a child under the age of 16'' there shall be substituted ''the care component of a disability living allowance at the highest or middle rate under section 37ZB of the Act(**a**)''.

Amendment of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978

4. For regulation 11 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(**b**) (modification of the Act in relation to mobility allowance) there shall be substituted the following regulation—

''*Modification of the Act in relation to disability living allowance*

11. A person shall not be disqualified for receiving disability living allowance by reason of being absent from Northern Ireland.''.

Amendment of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979

5.—(1) The Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1979(**c**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 4(2)(*g*) (adjustment of personal benefit under Chapters I and II of Part II of the Act where other personal benefit under those Chapters is payable) for ''mobility allowance'' there shall be substituted ''disability living allowance''.

(3) In regulation 6(3) (adjustments of personal benefit under Chapters I and II of Part II of the Act by reference to industrial injuries benefits and benefits not under the Act, and adjustments of industrial injuries benefits) for '', and to any benefit by reference to which it'' there shall be substituted ''or the care component of a disability living allowance and to any benefit by reference to which that allowance (as the case may be)''.

(4) In Schedule 1 (personal benefits which are required to be adjusted by reference to benefits not under Chapters I and II of Part II of the Act) in paragraph 5 of Column 1 after ''Attendance allowance'' there shall be added ''or the care component of a disability living allowance''.

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979

6. In regulation 4(1)(*b*)(i) of the Social Security (Widow's Benefit and Retirement Pensions) Regulations (Northern Ireland) 1979(**d**) (days to be treated as days of increment) for ''mobility allowance'' there shall be substituted ''disability living allowance''.

(**a**) 1975 c. 15; section 37ZB was inserted by Article 3(2) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991

(**b**) S.R. 1978 No. 114, to which there are amendments not relevant to these regulations

(**c**) S.R. 1979 No. 242, to which there are amendments not relevant to these regulations

(**d**) S.R. 1979 No. 243, to which there are amendments not relevant to these regulations

Amendment of the Social Security (General Benefit) Regulations (Northern Ireland) 1984

7.—(1) The Social Security (General Benefit) Regulations (Northern Ireland) 1984(**a**) shall be amended in accordance with paragraphs (2) and (3).

(2) In regulation 1(2) (interpretation) in the definition of ''determining authority'' after ''97(2) to (2E)'' there shall be inserted '', a disability appeal tribunal constituted under Schedule 10A(**b**)''.

(3) In regulation 2(2) (exceptions from disqualification for imprisonment, etc.) for ''mobility allowance'' there shall be substituted ''attendance allowance, disability living allowance''.

Amendment of the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984

8. In regulation 10 of the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984(**c**) (adjudication)—

(*a*) in paragraph (1)(*a*) for ''the period specified in a certificate issued in respect of him by the Attendance Allowance Board'' there shall be substituted ''a period when the person is or was entitled to attendance allowance''; and

(*b*) in paragraph (1)(*b*)(i) after ''of the Act'' there shall be inserted ''or the mobility component of a disability living allowance at the higher rate under section 37ZC of the Act(**d**) or the care component of a disability living allowance at the highest or middle rate under section 37ZB of the Act''.

Amendment of the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987

9.—(1) The Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987(**e**) shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 4(1)(*a*) (entitlement to a maternity payment) for ''or family credit'' there shall be substituted '', family credit or disability working allowance''.

(3) In regulation 5(*b*) (persons affected by a trade dispute) after ''family credit'' in each place where it occurs there shall be inserted ''or disability working allowance''.

(4) In regulation 6(1)(*a*) (entitlement to a funeral payment) after ''family credit'' there shall be inserted '', disability working allowance''.

(**a**) S.R. 1984 No. 92; relevant amending regulations are S.R. 1984 Nos. 174 and 317 and S.R. 1986 No. 340

(**b**) Schedule 10A was inserted by paragraph 16 of Schedule 1 to the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991

(**c**) S.R. 1984 No. 317, to which there are amendments not relevant to these regulations

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

(**e**) S.R. 1987 No. 150; relevant amending regulations are S.R. 1988 No. 22

Amendment of the Income Support (General) Regulations (Northern Ireland) 1987

10.—(1) The Income Support (General) Regulations (Northern Ireland) 1987 shall be amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation) after the definition of ''course of study'' there shall be inserted the following definitions—

'' ''disability living allowance'' means a disability living allowance under section 37ZA of the principal Act(**a**);

''disability working allowance'' means a disability working allowance under Article 21(6A) of the Order(**b**);''.

(3) In Schedule 1 (persons not required to be available for employment) in paragraph 4—

(*a*) in sub-paragraph (1)(*a*)(i) after ''principal Act'' there shall be inserted ''or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the principal Act'';

(*b*) in sub-paragraph (1)(*a*)(ii) for ''that section'' there shall be substituted ''section 35 of the principal Act''; and

(*c*) after sub-paragraph (1)(*a*)(ii) there shall be added—

''(iii) the person being cared for has claimed entitlement to a disability living allowance but only for the period up to the date of determination of that claim, or the period of 26 weeks from the date of that claim, whichever date is the earlier; or''.

(4) In Schedule 2 (applicable amounts)—

(*a*) in paragraph 7(2) after ''attendance allowance'' there shall be inserted ''or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the principal Act'';

(*b*) in paragraph 12—

(i) in sub-paragraph (1)(*a*)(i) for ''mobility allowance'' there shall be substituted ''disability living allowance, disability working allowance'', and

(ii) for sub-paragraph (1)(*c*) there shall be substituted—

''(*c*) the claimant or, as the case may be, his partner, was in receipt of either—

(i) invalidity pension under section 15 of the principal Act when entitlement to that benefit ceased on account of the payment of a retirement pension under the principal Act and the claimant has since remained continuously entitled to income support and, if the invalidity pension was payable to his partner, the partner is still alive, or

---

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

(b) S.I. 1986/1888 (N.I. 18); Article 21(6A) was inserted by Article 8(4) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991

(ii) except where paragraph 1(*a*), (*b*), (*c*)(ii) or (*d*)(ii) of Schedule 7 (patients) applies, attendance allowance or disability living allowance but payment of benefit has been suspended in accordance with regulations made under section 82(6)(*b*) of the principal Act,

and, in either case, the higher pensioner premium or disability premium has been applicable to the claimant or his partner.'';

(*c*) in paragraph 13 in sub-paragraphs (2)(*a*)(i), (2)(*b*)(i), (3)(*a*) and (3A)(*a*) after ''attendance allowance'' in each place where it occurs there shall be inserted ''or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the principal Act'';

(*d*) in paragraph 14(*b*) for ''attendance allowance or mobility allowance or both'' there shall be substituted ''disability living allowance''; and

(*e*) in paragraph 14ZA (2)(*b*) after ''attendance allowance'' there shall be inserted ''or the care component of a disability living allowance at the highest or middle rate prescribed in accordance with section 37ZB(3) of the principal Act''.

(5) In Schedule 4 (applicable amounts of persons in homes for persons in need and nursing homes) for paragraph 6(2)(*b*) there shall be substituted—

''(*b*) he—

(i) is in receipt of attendance allowance at the higher rate in accordance with section 35(3) of the principal Act(**a**) or the care component of a disability living allowance at the highest rate prescribed in accordance with section 37ZB(3) of the principal Act, or

(ii) has made a claim for attendance allowance or disability living allowance and, in respect of that claim, a decision has been made that he satisfies the conditions for receipt of either attendance allowance at the higher rate in accordance with section 35(3) of the principal Act or the care component of a disability living allowance at the highest rate prescribed in accordance with section 37ZB(3) of the principal Act, but he has not yet completed the qualifying period for that benefit; or''.

(6) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

(*a*) in paragraph 6 after ''mobility allowance'' there shall be added ''or the mobility component of a disability living allowance'';

(*b*) in paragraph 7(*a*) for ''paragraph 6 or 9'' there shall be substituted ''paragraph 6, 9 or 9A''; and

(*c*) after paragraph 9 there shall be inserted the following paragraph—

(a) Section 35(3) was substituted by paragraph 2(2) of Schedule 2 to the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991