1977 No. 250

SOCIAL SECURITY

The Social Security (Attendance Allowance) (Amendment) Regulations (Northern Ireland) 1977

Made . . . . . *9th August* 1977

Coming into operation . . . *29th August* 1977

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 35, 80(2) and 81 of the Social Security (Northern Ireland) Act 1975(**a**), as amended in the case of the said section 80(2) by Article 13(2) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(**b**), 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 (Attendance Allowance) (Amendment) Regulations (Northern Ireland) 1977 and shall come into operation on 29th August 1977.

(2) In these regulations the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975(**c**), as amended(**d**), are referred to as "the principal regulations" and the Social Security (Claims and Payments) Regulations (Northern Ireland) 1975(**e**), as amended(**f**), are referred to as "the Claims and Payments Regulations".

(3) Each provision of these regulations which amends other regulations shall be construed as one with the regulations which it amends.

Amendment of regulation 2 of the principal regulations

2. Regulation 2 of the principal regulations (entitlement conditions relating to residence and presence in Northern Ireland) shall be amended by the substitution in paragraph (3)(*a*) for "paragraph (2)(*a*)" of "paragraph (2)(*a*), (*b*) or (*c*)".

Amendment of regulation 4 of the principal regulations

3. Regulation 4 of the principal regulations (adults in certain accommodation other than hospitals) shall be amended by the addition, at the end of that regulation, of the words—

"and not being, in a case of a person who has not attained the age of 18, accommodation provided in pursuance of Article 36(1)(*b*) of the Health and Personal Social Services (Northern Ireland) Order 1972(**g**).".

(a) 1975 c. 15
(b) S.I. 1977/610 (N.I. 11)
(c) S.R. 1975 No. 102 (I, p. 620)
(d) The relevant amending regulation is S.R. 1977 No. 73
(e) S.R. 1975 No. 104 (I, p. 641)
(f) There is no amendment relevant to the subject matter of these regulations
(g) S.I. 1972/1265 (N.I. 14)

Amendment of regulation 6 of the principal regulations

4. Regulation 6 of the principal regulations (modification of section 35(1) to (4) of the Act in its application to children) shall be amended by the substitution for paragraph (5) of that regulation (provisions relating to person entitled to attendance allowance in respect of a child) of the following paragraph:

"(5) Paragraph (4) shall have effect subject to the following provisions—

(*a*) in a case to which sub-paragraph (*c*) of paragraph (4) applies, where, but for this sub-paragraph more than one person would be entitled to an attendance allowance in respect of a child for any period, the person so entitled shall be such one of those persons as the Department may determine; and

(*b*) where a sum has been paid to any person on account of attendance allowance in respect of a child for any period and has not been repaid or recovered, attendance allowance in respect of that child for that period shall not be payable to any other person who may establish title to it except to the extent that it may be payable at a higher rate than that already paid; and

(*c*) where a woman is living with her husband, attendance allowance to which she is entitled by virtue of paragraph (4) shall be payable to her or to her husband; and

(*d*) except where some other person would, but for this sub-paragraph, be awarded the allowance, if a child has been living with any person that child shall be treated as continuing to live with him during any period—

(i) throughout which the child is not living with him which has not lasted for more than 28 days continuously; and

(ii) where that person is one of spouses living together and the other spouse would have become entitled to the allowance had he claimed it, during such further period as the Department may determine to be reasonable in all the circumstances of the case;

and, where a child would otherwise be regarded as living with a person although absent from that person he shall, subject to the provisions of this sub-paragraph, be deemed, for the purposes of attendance allowance, to have ceased so to live; and

(*e*) a person, who has been contributing to the cost of providing for a child, shall be treated as continuing so to contribute during any period, in which he is not so contributing, which has not lasted for more than 28 days continuously; so however that this sub-paragraph shall not apply where some other person would, without the application of this sub-paragraph, be awarded the allowance; and

(*f*) a person shall be treated as contributing to the cost of providing for a child if that person is one of spouses living together and the other of them is so contributing.".

Amendment of regulation 7 of the principal regulations

5. Regulation 7 of the principal regulations (children in hospital and certain other accommodation) shall be amended by the insertion in paragraph (1)(*b*) of that regulation, immediately after the words "Schedule to these regulations", of the words:

"not being accommodation provided in pursuance of Article 36(1)(*b*) of the Health and Personal Social Services (Northern Ireland) Order 1972".