1972. No. 198 **[C]**

NATIONAL INSURANCE

Attendance Allowance

REGULATIONS, DATED 18TH AUGUST 1972, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACTS (NORTHERN IRELAND) 1966 TO 1972.

The Ministry of Health and Social Services on behalf of the Secretary of State, in conjunction with the Ministry of Finance on behalf of the Secretary of State so far as relates to matters with regard to which the Ministry of Finance has so directed, in exercise of powers conferred by sections 48(1) and 80(3) of the National Insurance Act (Northern Ireland) 1966(**a**), section 6 of the National Insurance Act (Northern Ireland) 1970(**b**) and section 2 of the National Insurance Act 1972(**c**), and of all other powers enabling it in that behalf, hereby makes the following regulations being regulations subject to negative resolution in accordance with section 101(3) of the first-mentioned Act:

Citation and commencement

1. These regulations, which may be cited as the National Insurance (Attendance Allowance) Amendment Regulations (Northern Ireland) 1972, shall be read as one with the National Insurance (Attendance Allowance) Regulations (Northern Ireland) 1971(**d**) (hereinafter referred to as "the principal regulations") and shall come into operation on 21st August 1972.

Amendment of Part I of the principal regulations

2. In regulation 1(2) of the principal regulations (definitions), after the definition of "the Act of 1970" there shall be inserted the following definition:

" 'the Act of 1972' means the National Insurance Act 1972(**e**);".

Amendment of Part II of the principal regulations

3. In regulation 2 of the principal regulations (entitlement conditions relating to residence and presence in Northern Ireland), in paragraph (1), for the words "section 4(2) of the Act of 1970" there shall be substituted the words "section 2(1) of the Act of 1972"; and in regulation 3 of the principal regulations (exception from disqualification for receipt of benefit), for the words "the Act of 1970" there shall be substituted the words "the Act of 1972".

Amendment of Part III of the principal regulations

4.—(1) For the heading of regulation 5 of the principal regulations and for that regulation there shall be substituted respectively the following heading and regulation:

(**a**) 1966. c. 6 (N.I.).
(**b**) 1970. c. 28 (N.I.).
(**c**) 1972. c. 57.
(**d**) S.R. & O. (N.I.) 1971, No. 139.
(**e**) 1972. c. 57.

"Adults in certain accommodation other than hospitals

5. Subject to regulation 6, attendance allowance shall not be payable in respect of a person who has attained the age of 16 for any period during which he is a person living in accommodation provided for him in pursuance of, or provided for him in circumstances in which the cost of the accommodation is or may be borne wholly or partly out of public or local funds in pursuance of, any of the enactments mentioned in the Schedule."

(2) For the Schedule to the principal regulations, there shall be substituted the Schedule set out in Schedule 1 to these regulations.

Amendment of Part IV of the principal regulations

5.—(1) Regulations 7 and 8 of the principal regulations (modification of section 4(2) and (4) of the Act of 1970 in its application to children) shall be amended in accordance with paragraphs (2) to (5).

(2) For the heading of regulation 7 and for paragraph (1) of that regulation there shall be substituted respectively the following heading and paragraph:

"Modification of section 2(1) *of the Act of* 1972 *in its application to children*

7.—(1) Section 2(1) of the Act of 1972 (entitlement to attendance allowance) shall have effect in relation to a child subject to the modifications contained in the following provisions of this regulation."

(3) For paragraph (4) of regulation 7 there shall be substituted the following paragraph:

"(4) Section 2(1) of the Act of 1972 shall have effect as if after the word 'functions' in both places where it occurs there were inserted the words '(being attention substantially in excess of that normally required by a child of the same age and sex)'; and as if after the word 'others' in both places where it occurs there were inserted the words '(being supervision substantially in excess of that normally required by a child of the same age and sex)'."

(4) In regulation 7(5)(*d*), for the word "paragraph" in both places where it occurs there shall be substituted the word "sub-paragraph".

(5) In regulation 8—

(*a*) for the heading and the words in paragraph (1) down to "during which" there shall be substituted respectively the following heading and words:

"Children in hospital and certain other accommodation

8.—(1) Section 2(3) and (5) of the Act of 1972 (attendance allowance not payable in certain circumstances) shall have effect in relation to a child in accordance with the following provisions of this regulation and attendance allowance shall not be payable in respect of a child for any period during which—"; and

(*b*) for sub-paragraph (*b*) of paragraph (1) there shall be substituted the following sub-paragraph:

"(*b*) the child is a person living in accommodation provided for him in pursuance of, or provided for him in circumstances in which the cost of the accommodation is or may be borne wholly or partly out of public or local funds in pursuance of, any of the enactments mentioned in the Schedule; or".

Amendment of Part V of the principal regulations

6. Regulation 9 of the principal regulations (claims in advance) is hereby revoked.

Amendment of Part VI of the principal regulations

7.—(1) Regulation 13 of the principal regulations (application for reviews of determinations made by the Board) shall be amended in accordance with paragraphs (2) and (3) and shall accordingly have effect as set out in Schedule 2.

(2) In paragraph (1) there shall be inserted at the beginning the words "Subject to the provisions of paragraph (1A)," and after paragraph (1) there shall be inserted the following paragraph:

"(1A) Such an application for review as is referred to in paragraph (1) shall not be made within 12 months of a previous such application without the leave of the Board."

(3) In paragraph (2) after the word "application" there shall be inserted the words "in respect of which the leave of the Board has been given or is not required".

8. For the heading of regulation 14 of the principal regulations and for that regulation there shall be substituted respectively the following heading and regulation:

"Reviews of determinations made by the Board

14.—(1) The prescribed period within which the Board may, in pursuance of section 6(3)(*b*) of the Act of 1970, review a determination on any ground, shall be a period of 3 months from the date on which notice of the determination which it is sought to have reviewed was given or sent to the claimant, so however that if an application for review is made (whether by the claimant or the Ministry) within 3 months from that date, the prescribed period shall be extended until the application for review is determined.

(2) Where the Board, having where appropriate given leave under regulation 13(1A), have reviewed a determination or have refused to review a determination the claimant and the Ministry shall be notified in writing of the determination on the review or of that refusal, as the case may be, and the reasons for it, and the claimant shall be notified of the conditions governing an appeal to the Commissioner."

9. Regulation 15 of the principal regulations (amendment of the National Insurance (Determination of Claims and Questions) Regulations) shall be renumbered 15(1) and the following paragraph shall be added at the end:

"(2) In regulation 15(2)(*a*)(f) of the said regulations, there shall be added at the end of head (iii) the word 'or' and the following additional head:

'(iv) a determination on review made by the Attendance Allowance Board for Northern Ireland constituted under section 5 of the National Insurance Act (Northern Ireland) 1970' ".

(f) See reg. 12 of S.R. & O. (N.I.) 1971, No. 287.