

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 relevant day”) not more than 3 months after the date on which the claim is made, then that authority may award disability living allowance 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

(c) in paragraph (2)(b)—

- (i) in head (i) for “13th” there shall be substituted “4th”,
- (ii) in head (ii) for “14th” there shall be substituted “5th”, and
- (iii) in head (iii) for “regulation 3, 4, 5, 11(1) or 11(4) of those regulations next applies to his case” there shall be substituted “he next lives in a specified hospital or other accommodation”; and

(d) in paragraph (2)—

- (i) for “13 weeks” there shall be substituted “28 days”, and
- (ii) for “hospital or other accommodation to which regulation 3, 4, 5 or 11 of those regulations applies” there shall be substituted “a specified hospital or other accommodation”.

Amendment of regulation 27 of the principal regulations

14. In regulation 27 of the principal regulations (family credit)—

(a) in paragraph (1) for the words preceding “shall be payable” there shall be substituted—

“Family credit and disability working allowance

27.—(1) Subject to regulation 21, family credit and disability working allowance”; and

(b) in paragraph (2) after “family credit” there shall be inserted “or disability working allowance”.

Amendment of regulation 30 of the principal regulations

15. In regulation 30(5) of the principal regulations (payments on death) for “or family credit” there shall be substituted “, family credit, disability working allowance”.

Amendment of regulation 33 of the principal regulations

16. In regulation 33(3) of the principal regulations (persons unable to act) the words “mobility allowance for” shall be omitted.

Amendment of regulation 35 of the principal regulations

17. In regulation 35 of the principal regulations (payment to a partner as alternative payee) for “or family credit” there shall be substituted “, family credit or disability working allowance”.

Omission of regulation 35A of the principal regulations

18. Regulation 35A of the principal regulations (claims for and payment of attendance allowance where section 35(2B) of the Act applies to a child) shall be omitted.

Substitution of heading to Part VI and omission of regulations 38, 39 and 40 of the principal regulations

19.—(1) For the heading to Part VI of the principal regulations (mobility allowance) there shall be substituted—

“MOBILITY COMPONENT OF DISABILITY LIVING ALLOWANCE
AND DISABILITY LIVING ALLOWANCE FOR CHILDREN”.

(2) Regulations 38 (claim and award for period beginning after the date on which the claim is received), 39 (claim received within 6 months after the end of a period for which mobility allowance is awarded) and 40 (obligations of persons in respect of whom mobility allowance is claimed or awarded and disqualification for failure to comply) of the principal regulations shall be omitted.

Amendment of regulation 41 of the principal regulations

20. In regulation 41 of the principal regulations (cases where mobility allowance not to be payable)—

(a) in paragraph (1) for the words preceding “shall not be payable” there shall be substituted—

“Cases where the mobility component of a disability living allowance not to be payable

41.—(1) Subject to the provisions of this regulation, the mobility component of a disability living allowance”;

(b) for paragraph (3) there shall be substituted the following paragraph—

“(3) Where a person, in respect of whom the mobility component of a disability living allowance is claimed for any period, has received any such payment as is referred to in paragraph (1)(b) for a period which, in whole or in part, covers the period for which the mobility component of a disability living allowance is claimed, such payment shall be treated as an aggregate of equal weekly amounts in respect of each week in the period for which it is made and, where in respect of any such week a person is treated as having a weekly amount so calculated which is less than the weekly rate of the mobility component of a disability living allowance specified in regulations made under section 37ZC(10) of the Act(a), any mobility component of a disability living allowance to which that person may be entitled for that week shall be payable at a weekly rate reduced by the weekly amount so calculated.”; and

(c) in paragraph (4)(c) for “mobility allowance” there shall be substituted “the mobility component of a disability living allowance”.

Amendment of regulation 42 of the principal regulations

21. In regulation 42 of the principal regulations (children)—

(a) in paragraph (1) for “mobility allowance” in each place where it occurs there shall be substituted “disability living allowance”;

(b) in paragraph (2)(d) for “mobility allowance” there shall be substituted “disability living allowance”;

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

- (c) in paragraph (3)(a) for “8 weeks” there shall be substituted “12 weeks”;
- (d) in paragraphs (4) and (5) for “mobility allowance” there shall be substituted “disability living allowance”;
- (e) in paragraph (6) for “8 weeks” in both places where it occurs there shall be substituted “12 weeks”;
- (f) in paragraph (7) for “mobility allowance” in both places where it occurs there shall be substituted “disability living allowance”; and
- (g) in paragraph (8) for “mobility allowance” in each place where it occurs there shall be substituted “disability living allowance”.

Amendment of regulation 43 of the principal regulations

22. In regulation 43(1) of the principal regulations (payment of mobility allowance on behalf of a beneficiary)—

- (a) for the words preceding “or negotiated by Motability” there shall be substituted—

“Payment of disability living allowance on behalf of a beneficiary

43.—(1) Where, under arrangements made”;

- (b) for “mobility allowance is payable” there shall be substituted “the mobility component of a disability living allowance is payable at the higher rate”; and
- (c) for “mobility allowance payable” there shall be substituted “mobility component at the higher rate payable”.

Amendment of regulation 44 of the principal regulations

23. In regulation 44 of the principal regulations (power for the Department to terminate an arrangement) for “mobility allowance” there shall be substituted “the mobility component of a disability living allowance”.

Amendment of regulation 45 of the principal regulations

24. In regulation 45 of the principal regulations (restriction on duration of arrangements by the Department) for “mobility allowance” there shall be substituted “the mobility component of a disability living allowance”.

Amendment of Schedule 1 to the principal regulations

25. In Part I of Schedule 1 to the principal regulations (benefit claimed and other benefit which may be treated as if claimed in addition or in the alternative)—

- (a) in column (2)—

- (i) after “Attendance allowance” in the first place where it occurs there shall be added “or disability living allowance”, and
- (ii) the words “attendance allowance” in the second place where they occur shall be omitted;

- (b) after “Widow’s benefit” in column (1) and “A retirement pension of any category or graduated retirement benefit” in column (2), there shall be added the following—

“Disability living allowance	Attendance allowance or an increase of disablement pension where constant attendance is needed
Attendance allowance or an increase of disablement pension where constant attendance is needed	Disability living allowance”;

- (c) after the entries added by paragraph (b) there shall be added the following—

“Disability working allowance	Family credit
Family credit	Disability working allowance”.

Amendment of Schedule 4 to the principal regulations

26. In Schedule 4 to the principal regulations (prescribed times for claiming benefit)—

- (a) in paragraph 7 (family credit) in column (2)—

- (i) after sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(aa) where disability working allowance has previously been claimed and awarded the period beginning 42 days before and ending 14 days after the last day of that award;”, and

- (ii) in sub-paragraph (b) for “(a)” there shall be substituted “(a) and (aa)”;

- (b) after paragraph 10 there shall be added the following paragraph—

“11. Disability working allowance	(a) Where disability working allowance has previously been claimed and awarded the period beginning 42 days before and ending 14 days after the last day of that award;
	(b) where family credit has previously been claimed and awarded the period beginning 28 days before and ending 14 days after the last day of that award;
	(c) subject to (a) and (b), the first day of the period in respect of which the claim is made;

- (d) where a claim for disability working allowance is made by virtue of regulation 13B(1), the period beginning on 10th March 1992 and ending on 6th April 1992.”.

Amendment of Schedule 6 to the principal regulations

27. In Schedule 6 to the principal regulations (days for payment of long terms benefits)—

- (a) for paragraph 1 there shall be substituted the following paragraph—

“Attendance allowance and disability living allowance

1. Subject to the provisions of regulation 25 (payment of attendance allowance, the care component of a disability living allowance and constant attendance allowance at a daily rate) attendance allowance shall be payable on Mondays and disability living allowance shall be payable on Wednesdays, except that the Department may in any particular case arrange for either allowance to be payable on any other day of the week and where it is in payment to any person and the day on which it is payable is changed, it shall be paid at a daily rate of one seventh of the weekly rate in respect of any of the days for which payment would have been made but for that change.”; and

- (b) paragraph 7 shall be omitted.

Amendment of Schedule 8 to the principal regulations

28. In paragraph 2(b) of Schedule 8 to the principal regulations (election to have child benefit paid weekly) for “or family credit” there shall be substituted “, family credit or disability working allowance”.

Outstanding claims and questions relating to mobility allowance

29. Notwithstanding the revocation of regulations 38, 39 and 40 and the amendment of regulations 2(1), 13(3), 22(1), 33(3) and 41 to 45 of the principal regulations, those provisions shall continue to have effect until 6th April 1992 for the purpose of determining any claim or question relating to mobility allowance as though these regulations had not come into operation.

Revocations

30. Regulation 3 of the Social Security (Attendance Allowance and Claims and Payments) (Amendment) Regulations (Northern Ireland) 1990(a) and regulation 7(6) of the Social Security (Miscellaneous Provisions) (Amendment) Regulations (Northern Ireland) 1990(b) are hereby revoked.

(a) S.R. 1990 No. 340

(b) S.R. 1990 No. 398

No. 7

Social Security

55

Sealed with the Official Seal of the Department of Health and Social Services on 10th January 1992.

(L.S.)

A. N. Burns

Assistant Secretary

(This note is not part of the Regulations.)

These regulations are consequential upon the coming into operation of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991 and amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 in the following respects—

- (a) they make provision for the making of claims for disability working allowance (regulation 3);
- (b) they make provision for the date of claims for disability living allowance and disability working allowance (regulation 4);
- (c) they enable an employer to furnish information or evidence in connection with a claim for disability working allowance (regulation 5);
- (d) they disapply the provisions of the respective regulations concerning advance claims and awards for disability living allowance and disability working allowance and payments on death (regulations 6 and 15);
- (e) they make provision for advance claims for disability living allowance and disability working allowance (regulations 7 and 8);
- (f) they provide for entitlement to, duration of award of and time for claiming disability working allowance (regulations 9, 10 and 11);
- (g) they make provision for the payment of benefit to apply to disability living allowance and disability working allowance (regulations 12, 13 and 14);
- (h) they enable disability working allowance to be paid to a partner (regulation 17);
- (i) they omit regulations 35A, 38, 39 and 40 (regulations 18 and 19);
- (j) they substitute references to mobility allowance with disability living allowance and make miscellaneous amendments (regulations 16, 20 to 24, 27 and 28);
- (k) they amend Schedule 1 to make further provision for the time for claiming family credit and insert the prescribed times for claiming disability working allowance (regulations 25 and 26); and
- (l) they enable provisions relating to mobility allowance which are revoked by these regulations to continue to apply until 6th April 1992 (regulation 29).

Regulation 30 makes consequential revocations.

The regulations correspond to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.