
STATUTORY INSTRUMENTS

1991 No. 1747

SOCIAL SECURITY

The Social Security (Severe Disablement Allowance) Amendment Regulations 1991

Made - - - - *25th July 1991*

Coming into force - - *14th October 1991*

Whereas a draft of this instrument was laid before Parliament in accordance with the provisions of section 167(1) of the Social Security Act 1975(1) and approved by resolution of each House.

Now, therefore, the Secretary of State for Social Security, in exercise of powers conferred by sections 36(4)(c), 36A(4), 128(2), 129(1), 131, 132 and 166 of, and Schedule 20 to, the Social Security Act 1975(2) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it,(3) hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Severe Disablement Allowance) Amendment Regulations 1991 and shall come into force on 14th October 1991.

(2) In these Regulations the expression “the principal Regulations” means the Social Security (Severe Disablement Allowance) Regulations 1984(4)

Amendment relating to residence and presence

2. For paragraph (2) of regulation 3 of the principal Regulations there shall be substituted the following paragraph—

“(2) Section 36 of the Act shall be modified by adding after subsection (4) the following subsection—

(4ZA) In determining whether the person satisfies any conditions prescribed under paragraph (c) of subsection (4) above—

(1) 1975 c. 14; section 167(1) was amended by the Social Security Pensions Act 1975 (c. 60), Schedule 5 and the Social Security Act 1986 (c. 50), section 62(3), and Schedule 10, paragraph 65.
(2) 1975 c. 14. Schedule 20 is cited for the meaning it ascribes to and Section 36 was substituted by section 11 of the Health and Social Security Act 1984 (c. 48). Section 36A was inserted by section 2(1) of the Social Security Act 1990 (c. 27).
(3) See the Social Security Act 1986, section 61(1)(b) and (10); the Social Security Act 1989 (c. 24), Schedule 8, paragraph 12(4) added a definition of to section 61(10) of the Social Security Act 1986.
(4) S.I.1984/1303.

- (a) any period during which the person is absent from Great Britain by reason only of the fact that—
- (i) he is abroad in his capacity as a serving member of the forces, or
 - (ii) he is living with a person mentioned in sub-paragraph (i) and is the spouse, son, daughter, father, father-in-law, mother or mother-inlaw of that person,
- shall be treated as a period during which the person was resident in Great Britain; and
- (b) any day on which the person is absent from Great Britain by reason only of the fact that on that day—
- (i) he is abroad in his capacity as a serving member of the forces, or
 - (ii) he is living with a person mentioned in sub-paragraph (i) and is the spouse, son, daughter, father, father-in-law, mother or mother-inlaw of that person, or
 - (iii) he is in employment prescribed for the purposes of section 132 of the Act in connection with continental shelf operations⁽⁵⁾, or
 - (iv) he is abroad in his capacity as an airman or mariner within the meaning of regulation 81 and regulation 86 respectively of the Social Security (Contributions) Regulations 1979⁽⁶⁾
- shall be treated as a day on which the person is present in Great Britain; and for the purposes of this provision, the expression “serving member of the forces” has the same meaning as in regulation 1(2) of the Social Security (Contributions) Regulations 1979.”

Amendment relating to age related additions

3. For regulation 10A of the principal Regulations⁽⁷⁾ there shall be substituted the following regulation—

“**10A.**—(1) A person shall be treated for the purposes of section 36A of the Act⁽⁸⁾ (which applies an age related addition to a severe disablement allowance) as having qualified for severe disablement allowance—

- (a) where he is a person to whom regulation 20 (persons formerly entitled to non-contributory invalidity pension) applies, on the first day of incapacity for work in a period of not less than 196 consecutive days of incapacity for work which immediately preceded the day he was first entitled to a noncontributory invalidity pension;
- (b) where he is a person who qualified for severe disablement allowance by virtue of subsection (3)(b) of section 36 of the Act and was incapable of work on each day in a period which immediately preceded the period of not less than 196 consecutive days mentioned in that subsection, on the first day of incapacity for work in the period first mentioned;
- (c) where he is a person to whom regulation 6 (modification of section 36(2) and (3) of the Act etc) applies, on the first day of incapacity for work in a period of not less than 196 consecutive days of incapacity which immediately preceded the first day on which he was previously entitled to a severe disablement allowance.

⁽⁵⁾ See regulation 85 of the Social Security (Contributions) Regulations 1979 (S.I. 1979/591).

⁽⁶⁾ S.I. 1979/591.

⁽⁷⁾ Regulation 10A was inserted by regulation 2 of S.I. 1990/2209 and came into force on 3rd December 1990.

⁽⁸⁾ Section 36A was inserted by section 2(1) of the Social Security Act 1990 (c. 27).

(2) Where in any particular case a person satisfies the requirements of two or more subparagraphs in paragraph (1), then he shall be treated as having qualified for severe disablement allowance in accordance with that sub-paragraph which produces the earlier or earliest day in his case.”

Signed by authority of the Secretary of State for Social Security.

25th July 1991

Nicholas Scott
Minister of State,
Department of Social Security

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security Act 1975 (“the Act”) and the Social Security (Severe Disablement Allowance) Regulations 1984 (“the principal Regulations”).

Regulation 2 provides that for the purposes of section 36(4) of the Act a person shall be treated as both present and resident in Great Britain if he is living abroad either because he is a serving member of the forces, or is living abroad as a member of the family of such a person. Certain other categories of persons are also treated as present in Great Britain although living abroad.

Regulation 3 provides that a person shall be treated for the purposes of section 36A of the Act (which applies an age related addition to a severe disablement allowance) as having qualified for severe disablement allowance—

- (a) where he is a person formerly entitled to a non-contributory invalidity pension, on the first day of a period of incapacity for work of not less than 196 consecutive days which immediately preceded the day he was first entitled to such a pension;
- (b) where he is a person who was incapable of work but not both incapable of work and disabled immediately before the first day of a period of incapacity for work of not less than 196 consecutive days of incapacity for work, on the first day of incapacity for work in that period;
- (c) where he is a person to whom regulation 6 of the principal Regulations applies, on the first day of a period of incapacity for work of not less than 196 consecutive days of incapacity which immediately preceded the first day on which he was previously entitled to a severe disablement allowance.