
STATUTORY INSTRUMENTS

1991 No. 2741

SOCIAL SECURITY

The Social Security (Claims and Payments) Amendment Regulations 1991

Made - - - - 5th December 1991
Laid before Parliament 5th December 1991
Coming into force in accordance with regulation 1(1)

The Secretary of State for Social Security, in exercise of powers conferred by section 166(1) to (3A) of the Social Security Act 1975(1) and sections 51(1)(a), (b), (c), (d), (e), (g), (h), (k), (m), (n), (q) and (r), 51B and 84(1) of the Social Security Act 1986(2) and of all other powers enabling him in that behalf, by this instrument, which contains only provisions consequential on the Disability Living Allowance and Disability Working Allowance Act 1991(3) and is made before the end of the period of 6 months from the coming into force of that enactment, 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 1991 and shall come into force–

- (a) for the purposes of regulations 1, 2(a), 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 2(b), 3, 4(a), (b) and (e), 5, 6(b), 7(2), 9, 10(b) and (c), 11, 15, 17, 25(c), 26 and 28 on 10th March 1992;
- (c) for all other purposes on 6th April 1992.

(2) In these Regulations unless the context otherwise requires, any reference to a numbered Part, paragraph, regulation or Schedule is a reference to the Part, paragraph, regulation or Schedule bearing that number in the Social Security (Claims and Payments) Regulations 1987(4).

(1) 1975 c. 14; subsection (3A) of section 166 was inserted by section 62 of the Social Security Act 1986 (c. 50) and section 166(1) to (3A) is applied by section 83(1) of the Social Security Act 1986.
(2) 1986 c. 50; section 84(1) is cited because of the meaning it ascribes to the word “regulations”. Section 51B was inserted by section 135 of and Schedule 10 to the Local Government Finance Act 1988 c. 41.
(3) 1991 c. 21.
(4) S.I. 1987/1968; relevant amending instruments are S.I. 1988/522, 1725, 1843, 1989/1686, 1990/1871, 2208, 1991/2284.

Amendment of regulation 2

2. In regulation 2 (interpretation)–

- (a) in paragraph (1) in the definition of “long-term benefits” for the words “mobility allowance” there shall be substituted the words “disability living allowance”;
- (b) in paragraph (2)(b) for the words “and family credit” there shall be substituted the words “, family credit and disability working allowance”.

Amendment of regulation 4

3. In regulation 4 (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 Section 20(6A) of the Social Security Act 1986⁽⁵⁾, 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 Secretary of State shall determine.”

Amendment of regulation 6

4. In regulation 6 (date of claim)–

- (a) in paragraph (3)(6) after the words “family credit” there shall be inserted the words “, disability working allowance”;
- (b) in paragraph (4) for the words “or family credit” there shall be substituted the words “, family credit or disability working allowance”;
- (c) in paragraph (5)(7)–
 - (a) after the words “attendance allowance” there shall be inserted the words “or disability living allowance or a request under paragraph (8)”;
 - (b) for the word “claim” in the second and third place where it occurs there shall be substituted the words “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 disability living allowance or attendance allowance; and
- (b) in response to the request a claim form for disability living allowance or attendance 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 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 Secretary of State under regulation 4(1);

“properly completed” has the meaning assigned by regulation 4(8);

⁽⁵⁾ Subsection (6A) was inserted by section 6(4) of the Disability Living Allowance and Disability Working Allowance Act 1991.

⁽⁶⁾ Relevant amending instruments are S.I. 1988/522, 1725 and 1991/2284.

⁽⁷⁾ Relevant amending instrument is S.I. 1989/1686.

“the time specified” means 6 weeks from the date on which the request was received or such longer period as the Secretary of State may consider reasonable.”

(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 for the same allowance is made in respect of him within the period prescribed under section 100A(1) of the Social Security Act 1975(8) and that further claim has been 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.”.

Amendment of regulation 7

5. In regulation 7(3) (evidence and information) after the words “family credit” there shall be inserted the words “or disability working allowance”.

Amendment of regulation 13

6. In regulation 13(3)(9) (advance claims)—

- (a) for the words “mobility allowance” there shall be substituted the words “disability living allowance”; and
- (b) after the words “family credit” there shall be inserted the words “disability working allowance”.

Insertion of regulations 13A and 13B

7. —

(1) After regulation 13 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 three 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.

(8) Section 100A was inserted by section 4 of and paragraph 5 of Schedule 1 to the Disability Living Allowance and Disability Working Allowance Act 1991.

(9) Relevant amending instrument is S.I. [1991/2284](#).

(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 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

8. After regulation 13B 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

9. In regulation 16(10) (date of entitlement for payability of benefit rate)—

- (a) in paragraph (1A)—
 - (i) after the reference to “paragraph 7(a)” there shall be inserted a reference to “or (aa)”; and
 - (ii) after the words “family credit” in the second place where they occur there shall be inserted the words “or disability working allowance,”;
- (b) in paragraph (1B) after the words “family credit” there shall be inserted the words “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 the words “family credit” there shall be inserted the words “or disability working allowance”.

Amendment of regulation 17

10. In regulation 17(1) (duration of awards)–

- (a) after the words “of section” there shall be inserted the words “37ZA(3) of the Social Security Act 1975(11) (disability living allowance) and section”;
- (b) after the reference to “section 20(6)” there shall be inserted a reference to “and (6F)(12)”;
- and
- (c) after the words “family credit” there shall be inserted the words “and disability working allowance”.

Amendment of regulation 19

11. In regulation 19(13) (time for claiming benefit)–

- (a) in paragraph (3)(b) after the words “family credit” there shall be inserted the words “or disability working allowance”; and
- (b) in paragraph (4) after the words “family credit” there shall be inserted the words “, disability working allowance”.

Amendment of regulation 22

12. In regulation 22(1) (long term benefits)–

- (a) for the reference to “regulation 21” there shall be substituted a reference to “regulations 21 and 25(1)”;
- and
- (b) for the words “mobility allowance” there shall be substituted the words “disability living allowance”.

Amendment of regulation 25

13. In regulation 25 (payment at a daily rate)–

- (a) in paragraph (1), after the words “attendance allowance” in both places where they occur there shall be inserted the words “or disability living allowance by virtue of entitlement to the care component”;
- (b) in paragraph (2)(a) for the words “hospital or other accommodation specified in regulation 3, 4 or 7(1) of the Social Security (Attendance Allowance) (No. 2) Regulations 1975” there shall be substituted the words “a hospital specified in or other accommodation provided as specified in regulations made under section 37ZB(8) of the Social Security Act 1975(14) (“specified hospital or other accommodation)”;
- (c) in paragraph (2)(b)(i) for the reference to “13th” there shall be substituted a reference to “4th”;

(11) Section 37ZA was inserted into the Social Security Act 1975 by section 1 of the Disability Living Allowance and Disability Working Allowance Act 1991.

(12) Subsection (6F) was inserted into Section 20 of the Social Security Act 1986 by section 6(4) of the Disability Living Allowance and Disability Working Allowance Act 1991.

(13) Relevant amending instruments are S.I. 1988/1725, 1989/1686 and 1991/2284.

(14) Section 37ZB was inserted by section 1 of the Disability Living Allowance and Disability Working Allowance Act 1991.

- (d) in paragraph (2)(b)(ii) for the reference to “14th” there shall be substituted a reference to “5th”;
- (e) in paragraph (2)(b)(iii) for the words “regulation 3, 4, 5, 7(1) or 7(2) next applies to his case” there shall be substituted the words “he next lives in specified hospital or other accommodation”; and
- (f) in paragraph (2)–
 - (i) for the reference to “13 weeks” there shall be substituted a reference to “28 days”; and
 - (ii) for the words “hospital or other accommodation to which regulation 3, 4, 5 or 7 applies” there shall be substituted the words “specified hospital or other accommodation”.

Substitution of regulation 27

14. For regulation 27 (payment of family credit) there shall be substituted the following regulation–

“Family credit and disability working allowance

27. –

(1) Subject to regulation 21, family credit and disability working allowance shall be payable in respect of any benefit week on the Tuesday next following the end of that week by means of a book of serial orders unless in any case the Secretary of State arranges otherwise.

(2) Where the entitlement to family credit or disability working allowance is less than 50 pence a week that amount shall not be payable.”

Amendment of regulation 30

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

Amendment of regulation 33

16. In regulation 33(3) (persons unable to act) for the words “(mobility allowance for children)” there shall be substituted the words “(disability living allowance for a child)”.

Amendment of regulation 36

17. In regulation 36 (payment to a partner as alternative payee) for the words “, or family credit” there shall be substituted the words “, family credit or disability working allowance”.

Omission of regulation 36A

18. Regulation 36A(16) (attendance allowance for a terminally ill child) shall be omitted.

Omission of regulations 39, 40 and 41

19. In Part VI–

- (a) for the heading to that Part there shall be substituted the following heading–

(15) Relevant amending instruments are S.I. 1988/1725, 1990/2208.

(16) Regulation 36A was inserted by S.I. 1990/1871.

“MOBILITY COMPONENT OF DISABILITY LIVING ALLOWANCE AND DISABILITY LIVING ALLOWANCE FOR CHILDREN”; and

- (b) regulations 39 to 41 shall be omitted.

Amendment of regulation 42

- 20.** In regulation 42 (allowance not payable)–
- (a) in paragraph (1) for the words “an allowance” there shall be substituted the words “disability living allowance by virtue of entitlement to the mobility component”; and
 - (b) in paragraph (3)–
 - (i) for the words “mobility allowance” there shall be substituted the words “disability living allowance”; and
 - (ii) for the words “allowance specified in paragraph 3A of Part III of Schedule 4 to the Social Security Act 1975” there shall be substituted the words “mobility component of disability living allowance to which, apart from paragraph (1), he would be entitled”; and
 - (c) in paragraph (4)(c) for the words “mobility allowance” there shall be substituted the words “disability living allowance by virtue of entitlement to the mobility component”.

Amendment of regulation 43

- 21.** In regulation 43 (children)–
- (a) in paragraph (1)–
 - (i) for the words “an allowance” in the first and second place where they occur there shall be substituted the words “disability living allowance”; and
 - (ii) for the words “an allowance” in the third place where they occur there shall be substituted the words “that allowance”;
 - (b) in paragraph (3)(a) for the reference to “8 weeks” there shall be substituted a reference to “12 weeks”;
 - (c) in the proviso to paragraph (4) for the reference to “8 weeks” in both places where it occurs there shall be substituted a reference to “12 weeks”;
 - (d) in paragraph (5) for the words “mobility allowance” there shall be substituted the words “disability living allowance”; and
 - (e) in paragraph (6)–
 - (i) for the words “mobility allowance” in both places where they occur there shall be substituted the words “disability living allowance”;
 - (ii) after the words “district health authority” there shall be inserted the words “, National Health Service Trust”;
 - (iii) after the words “that authority” in each place where they occur there shall be inserted the words “or Trust”; and
 - (iv) after the words “the authority” there shall be inserted the words “or Trust”.

Amendment of regulation 44

22. The heading to regulation 44 (payment of mobility allowance on behalf of a beneficiary) shall be amended by substituting the words “disability living allowance” for the words “mobility allowance” and in regulation 44(1)–

- (a) for the words “mobility allowance is payable” there shall be substituted the words “disability living allowance is payable by virtue of entitlement to the mobility component at the higher rate⁽¹⁷⁾”; and
- (b) for the words “mobility allowance payable” there shall be substituted the words “disability living allowance by virtue of entitlement to the mobility component at the higher rate payable.”

Amendment of regulation 45

23. In regulation 45 (power for the Secretary of State to terminate an arrangement) for the words “mobility allowance” there shall be substituted the words “disability living allowance by virtue of entitlement to the mobility component at the higher rate”.

Amendment of regulation 46

24. In regulation 46 (restriction on duration of arrangements by the Secretary of State) for the words “mobility allowance” there shall be substituted the words “disability living allowance by virtue of entitlement to the mobility component at the higher rate”.

Amendment of Schedule 1

25. In Part I of Schedule 1⁽¹⁸⁾ (benefit claimed and other benefit treated as claimed)–

- (a) in column (2)–
 - (i) after the words “Attendance allowance” in the first place where they occur there shall be inserted the words “or disability living allowance”, and
 - (ii) the words “attendance allowance” in the second place where they occur shall be omitted; and
- (b) after the entry relating to widow’s benefit in column (1) and the entry relating to a retirement pension of any category or graduated retirement benefit in column (2), there shall be added the following entries–

“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 referred to in sub-paragraph (b) of this regulation there shall be added the following entries–

“Disability working allowance	Family credit.
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⁽¹⁷⁾ Conditions for entitlement to the mobility component at the higher rate are referred to in section 37ZC(11)(a) of the Disability Living Allowance and Disability Working Allowance Act 1991.

⁽¹⁸⁾ Relevant amending instruments are S.I. 1988/522, 1990/2208.

Family credit

Disability working allowance.”

Amendment of Schedule 4

26. In Schedule 4(19) (prescribed times for claiming benefit)–

(a) in paragraph 7 (family credit) in column 2–

(i) after paragraph (a) there shall be inserted the following 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 of disability working allowance;” and

(ii) in paragraph (b) for the reference to “(a)” there shall be substituted a reference to “(a) and (aa)”;

(b) after paragraph 10 there shall be added the following entry–

“**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 of family credit;

(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

27. In Schedule 6 (days for payment of long term 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, constant attendance allowance and the care component of a disability living allowance at a daily rate) attendance allowance shall be payable on Mondays and disability living allowance shall be payable on Wednesdays, except that the Secretary of State 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 1/7th of the weekly rate in respect of any of the days for which payment would have been made but for that change.”;

(b) paragraph 7 shall be omitted.

Amendment of Schedule 8

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

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

Outstanding claims and questions relating to mobility allowance

29. Notwithstanding the revocation of regulations 39, 40 and 41 (mobility allowance) and the amendment of regulations 2(1), 13(3), 22(1), 33(3), 42, 43, 44, 45 and 46, 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 force.

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

5th December 1991

Nicholas Scott
Minister of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations 1987 (S.I.1987/1968) (“the Claims and Payments Regulations”) and are consequential upon the coming into force of the Disability Living Allowance and Disability Working Allowance Act 1991 which makes provision for disability living allowance and disability working allowance and revokes section 37A of the Social Security Act 1975 under which mobility allowance is paid.

Regulations 3 and 4 amend regulations 4 and 6 of the Claims and Payments Regulations so as to make provision for the making of claims for disability working allowance and the date of claims for disability living allowance and disability working allowance.

Regulation 5 amends regulation 7 of the Claims and Payments Regulations (evidence and information) so that it applies to disability working allowance.

Regulation 6 amends regulation 13(3) of the Claims and Payments Regulations so as to prevent the provisions of that regulation concerning advance claims and awards applying to disability living allowance and disability working allowance.

Regulations 7 and 8 make provision for advance claims for disability living allowance and disability working allowance.

Regulations 9, 10 and 11 amend respectively regulations 16 (date of entitlement to payability of benefit), 17 (duration of awards) and 19 (time for claiming benefit) of the Claims and Payments Regulations so that provision is made in those regulations for disability working allowance.

Regulations 12 and 13 amend respectively regulations 22 and 25 of the Claims and Payments Regulations so that the provision those regulations make as to the payment of benefit shall apply to disability living allowance and regulation 14 substitutes a new regulation 27 so as to make provision for payment of disability working allowance.

Regulation 15 amends regulation 30(5) of the Claims and Payments Regulations so as to disapply the provisions relating to payments on death to disability working allowance. Regulation 16 amends regulation 33 of those Regulations (persons unable to act) so that it applies to disability living allowance and regulation 17 amends regulation 36 of the Claims and Payments Regulations to enable disability working allowance to be paid to a partner.

Regulations 18 and 19 omit regulation 36A which relates to attendance allowance and regulations 39, 40 and 41 which relate to mobility allowance.

Regulations 20 to 24 amend respectively regulations 42 to 46 of the Claims and Payments Regulations (which make provision for the payment of mobility allowance and the cases where mobility allowance is not paid) by substituting references to the mobility component of a disability living allowance for references to mobility allowance.

Regulation 25 amends Schedule 1 to the Claims and Payments Regulations (benefit claimed and other benefit treated as claimed) so that provision is made for disability living allowance and disability working allowance, regulation 26 makes provision in Schedule 4 for the time for claiming disability working allowance and regulations 27 and 28 amend respectively Schedule 6 (days of payment for long term benefit) and Schedule 8 (election to have child benefit paid weekly) to the Claims and Payments Regulations.

Regulation 29 enables certain provisions in the Claims and Payments Regulations relating to mobility allowance which are revoked by these Regulations to continue to apply until 6th April 1992.

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

These Regulations only contain provisions consequential on the Disability Living Allowance and Disability Working Allowance Act 1991 and are made before the end of the period of 6 months from the coming into force of that Act and so are exempt from reference to the Social Security Advisory Committee by virtue of section 61(5)(a) of the Social Security Act 1986, and have not been so referred.