
STATUTORY RULES OF NORTHERN IRELAND

1992 No. 38

The Social Security (Introduction of Disability Living Allowance) Regulations (Northern Ireland) 1992

Part III

Mobility Allowance

Termination or cancellation of awards of mobility allowance

7. Any award of mobility allowance made to a person for a period—
- (a) part of which falls after 5th April 1992, shall terminate immediately before 6th April 1992; or
 - (b) the whole of which falls after 5th April 1992, shall be cancelled.

Disability living allowance to replace mobility allowance

- 8.—(1) Subject to paragraph (4), a person whose award of mobility allowance terminates in accordance with regulation 7(a) shall be treated as having been awarded the mobility component—
- (a) for a period commencing on 6th April 1992 and ending on the day on which the period of the award of mobility allowance would have ended but for regulation 7(a); or
 - (b) for life, where the award of mobility allowance was for, or had effect as if for, a period ending on the day before the day on which the person would have attained the age of 80.
- (2) Subject to paragraph (4), a person whose award of mobility allowance is cancelled in accordance with regulation 7(b) shall be treated as having been awarded the mobility component—
- (a) except where sub-paragraph (b) applies, for a period commencing on the date on which the award of mobility allowance would have commenced, and ending on the date on which that award would have ended, but for regulation 7(b); or
 - (b) where the award of mobility allowance was for a period ending with the day before the day on which the person would have attained the age of 80, for life, commencing on the date on which the award of mobility allowance would have commenced but for regulation 7(b).
- (3) The weekly rate of disability living allowance payable by virtue of this regulation shall be the higher of the two weekly rates of the mobility component prescribed under section 37ZC(10).
- (4) Disability living allowance awarded in accordance with this regulation shall continue for the period of the award only for as long as the person to whom the award is treated as made continues—
- (a) to satisfy the conditions as to residence and presence in Northern Ireland prescribed under section 37ZA(6); and

- (b) to satisfy, or to be deemed in accordance with Article 10(1) of the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977(1) (mobility component for certain persons eligible for invalid carriages) to satisfy, one of the conditions mentioned in section 37ZC(1)(a) to (c).

Claims for, and applications for reviews of decisions relating to, mobility allowance

9.—(1) The replacement of mobility allowance by disability living allowance shall, except to the extent specified in paragraphs (4) and (5), be disregarded in a case to which paragraph (2) or (3) applies.

(2) This paragraph applies in a case where a person—

- (a) is under the age of 65 on 6th April 1992;
- (b) has an award of mobility allowance which expires after 5th April 1992; and
- (c) makes a claim for mobility allowance for a period commencing immediately after that award expires.

(3) This paragraph applies in a case where—

- (a) a person is under the age of 65 on 6th April 1992;
- (b) that person has an award of mobility allowance or is the subject of a decision given on a claim or application for a review not to award benefit; and
- (c) an application for a review is made to an adjudication officer in accordance with section 104(2) for the decision to award or, as the case may be, not to award benefit to be reviewed.

(4) Any award of mobility allowance made in accordance with this regulation shall be subject to the provisions of regulations 7 and 8.

(5) In determining under this regulation, a person's entitlement to mobility allowance for any period after 5th April 1992—

- (a) the conditions as to residence and presence in Northern Ireland prescribed under section 37ZA(6) (disability living allowance) and not those prescribed under section 37A(1)(2) (mobility allowance) shall apply; and
- (b) for the reference to 12 months in section 37A(2)(a)(2) there shall be substituted a reference to 9 months.

Claims for the mobility component treated as having been made

10.—(1) Paragraph (2) applies where—

- (a) a person who—
 - (i) does not have an award of mobility allowance, or
 - (ii) does have an award of mobility allowance, but that award is due to expire before 6th April 1992,

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- (1) [S. I. 1977/610 \(N. I. 11\)](#); Article 10(1) was amended by paragraph 7 of Schedule 2 to the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991
- (2) Section 37A was inserted by Article 24(1) of the [Social Security Pensions \(Northern Ireland\) Order 1975 \(S. I. 1975/1503 \(N. I. 15\)\)](#); and subsection (2) was amended by Article 72(1) of the Social Security (Northern Ireland) Order 1986. The section ceases to have effect from 6th April 1992 by virtue of Article 4(3) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991
- (2) Section 37A was inserted by Article 24(1) of the [Social Security Pensions \(Northern Ireland\) Order 1975 \(S. I. 1975/1503 \(N. I. 15\)\)](#); and subsection (2) was amended by Article 72(1) of the Social Security (Northern Ireland) Order 1986. The section ceases to have effect from 6th April 1992 by virtue of Article 4(3) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991

makes a claim for mobility allowance or an application in writing is made in accordance with section 104(2) for a decision on a claim for mobility allowance relating to him to be reviewed, or a question has been referred to a medical board or a case to a medical appeal tribunal in accordance with Section B of Part IV of the Adjudication Regulations;

- (b) the claim, application or reference is made after 2nd February 1992, or is made before 3rd February 1992 but has not been determined by that date; and
- (c) at the time the claim, application or reference is determined, the person to whom it relates has not made a claim for disability living allowance.

(2) Where an adjudication officer is determining a claim or application such as is mentioned in paragraph (1) and is satisfied that—

- (a) the person does not satisfy the conditions of entitlement to mobility allowance; but
- (b) solely on the evidence before him, and apart from the requirement that the person makes a claim for disability living allowance in the manner and within the time prescribed, the person would, as from 6th April 1992 or from such later date as the adjudication officer may in any particular case determine, satisfy those conditions of entitlement to the mobility component which qualify him for—

- (i) the lower, but not the higher rate of the mobility component, or
- (ii) the higher rate of that component but only by virtue of being a person who falls within section 37ZC(3) (severe mental impairment and severe behavioural problems),

a claim for the mobility component only shall be treated as having been made on 3rd February 1992, and an adjudication officer shall determine it.

(3) Where a claim, application or reference is being determined by a medical board or a medical appeal tribunal and they are satisfied that—

- (a) the question before them be determined against the person claiming mobility allowance; but
- (b) solely on the evidence before them, the person may, as from 6th April 1992, or from such later date as they may in any particular case determine, satisfy the conditions of entitlement to the mobility component specified in section 37ZC(1)(c) or (d),

they shall refer the case to an adjudication officer.

(4) Where a case is referred to an adjudication officer in accordance with paragraph (3), a claim for the mobility component shall be treated as having been made on 3rd February 1992, and the adjudication officer shall determine that claim.