

1989 No. 396

SOCIAL SECURITY

**The Social Security (Severe Disablement Allowance
(Amendment) and Councillors Consequential
Regulations (Northern Ireland) 1989**

Made 6th October 1989

Coming into operation 9th October 1989

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 36(7)(c)(i) and (cc) of the Social Security (Northern Ireland) Act 1975(a) and Article 31(3) of the Social Security (Northern Ireland) Order 1989(b) 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 (Severe Disablement Allowance (Amendment) and Councillors Consequential) Regulations (Northern Ireland) 1989 and shall come into operation on 9th October 1989.

(2) In these regulations—

“councillor” and “councillor’s allowance” have the same meanings as in paragraph 2(6) of Schedule 8 to the Social Security (Northern Ireland) Order 1989;

“Education and Library Board” means a Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986(c); and

“the Severe Disablement Allowance Regulations” means the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984(d).

(3) The Interpretation Act (Northern Ireland) 1954(e) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Amendment of the Severe Disablement Regulations

2.—(1) The Severe Disablement Allowance Regulations shall be amended in accordance with the following provisions.

(a) 1975 c. 15: section 36 was substituted by Article 5(1) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) and subsection (7)(cc) was inserted by paragraph 2(5) of Schedule 8 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13))

(b) S.I. 1989/1342 (N.I. 13)

(c) S.I. 1986/594 (N.I. 3)

(d) S.R. 1984 No. 317: to which there are amendments not relevant to these regulations

(e) 1954 c. 33 (N.I.)

(2) In regulation 2 (interpretation) after paragraph (1) there shall be added the following paragraph—

“(1A) In these regulations “councillor” and “councillor’s allowance” have the same meanings as in paragraph 2(6) of Schedule 8 to the Social Security (Northern Ireland) Order 1989.”.

(3) After regulation 7 (days for which persons are to be treated as incapable of work for the purposes of severe disablement allowance) there shall be inserted the following regulation—

“Treatment of a day on which duties as a councillor are performed as a day of incapacity for work

7A. A person who is a councillor shall be treated as incapable of work for the purposes of subsections 2(b) and 3(b) of section 36 of the Act on any day on which he undertook work as a councillor, and which would, but for this regulation, have been a day on which he was treated as not incapable of work solely by reason of the work he undertook as a councillor.”.

(4) After regulation 8 (circumstances in which a person is to be treated as receiving full-time education) there shall be inserted the following regulation—

“Severe disablement allowance for persons who are councillors

8A. Where the amount of a councillor’s allowance to which a person is entitled in respect of any week exceeds the sum for the time being specified in regulation 3(3) of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984(a), then an amount equal to the excess shall be deducted from the amount of any severe disablement allowance to which he is entitled in respect of that week, and only the balance remaining (if any) shall be payable.”.

Treatment of a councillor’s allowance paid otherwise than weekly

3.—(1) Where a councillor’s allowance is paid otherwise than weekly, an amount calculated in accordance with the following provisions shall be regarded as the weekly amount of that allowance.

(2) In the case of an attendance allowance payable by virtue of regulations made under section 36(1) of the Local Government Act (Northern Ireland) 1972(b) or by way of attendance allowance in relation to his functions as a member of an Education and Library Board in accordance with Article 79(3) of the Education and Libraries (Northern Ireland) Order 1986, the weekly amount shall be the amount paid in respect of attendance undertaken in respect of the week in question.

(3) In the case of a special responsibility allowance payable by virtue of regulations made under section 36(1) of the Local Government Act (Northern Ireland) 1972, the weekly amount shall be calculated—

(a) where the allowance is paid annually, by dividing the amount paid by 52;

(a) S.R. 1984 No. 245

(b) 1972 c. 9 (N.I.); section 36(1) was substituted by Article 9(a) of the Financial Provisions (Northern Ireland) Order 1978 (S.I. 1978/1041 (N.I. 11))

- (b) where the allowance is paid quarterly, by dividing the amount paid by 13;
- (c) where the allowance is paid monthly, by multiplying the amount by 12 and dividing by 52; and
- (d) in any other case, by dividing the amount of the allowance by the number of days in the period and multiplying it by 7.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 6th October 1989.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations are made under or are otherwise consequential upon paragraph 2 of Schedule 8 to the Social Security (Northern Ireland) Order 1989. The said paragraph 2 of Schedule 8 is brought into operation on 9th October 1989 by Article 2(f) of the Social Security (1989 Order) (Commencement No. 1) Order (Northern Ireland) 1989 (S.R. 1989 No. 353 (C. 14)).

These regulations include amendments to the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984. They provide that where a person is a councillor, he shall be treated as incapable of work and therefore entitled to severe disablement allowance, although on the relevant day he works as a councillor (regulation 2(3)). They also provide that where a councillor is entitled to a councillor's allowance in respect of any week, the amount by which it exceeds the sum specified for the time being in regulation 3(3) of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations (Northern Ireland) 1984 shall be deducted from any severe disablement allowance to which he is entitled in respect of that week, and that the balance, if any, shall be payable (regulation 2(4)).

They also provide for the calculation of a councillor's allowance where the councillor is paid his allowance otherwise than weekly (regulation 3).

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.