

1990 No. 392

SOCIAL SECURITY

**The Social Security (Severe Disablement Allowance)
(Amendment) Regulations (Northern Ireland) 1990**

Made 9th November 1990

Coming into operation 3rd December 1990

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 36A(4) of the Social Security (Northern Ireland) Act 1975(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 (Severe Disablement Allowance) (Amendment) Regulations (Northern Ireland) 1990 and shall come into operation on 3rd December 1990.

(2) In these regulations “the principal regulations” means the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984(b).

Amendment of the principal regulations

2. After Part II of the principal regulations (miscellaneous provisions relating to severe disablement allowance) there shall be inserted the following Part—

“PART IIA

SEVERE DISABLEMENT ALLOWANCE: AGE RELATED ADDITION

Circumstances in which a person is to be treated as having qualified for severe disablement allowance

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

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- (a) 1975 c. 15; section 36A(4) was inserted by Article 4(1) of the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)) and was brought into operation on 1st October 1990 by virtue of Article 2(a) of the Social Security (1990 Order) (Commencement No. 2) Order (Northern Ireland) 1990 (S.R. 1990 No. 351 (C. 14))
- (b) S.R. 1984 No. 317; to which there are amendments not relevant to these regulations
- (c) Section 36A was inserted by Article 4(1) of the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)). Article 4(1) was brought into operation on 1st October 1990, for the purposes of authorising regulations, by virtue of Article 2(a) of the Social Security (1990 Order) (Commencement No. 2) Order (Northern Ireland) 1990 (S.R. 1990 No. 351 (C. 14)) and comes into operation for all other purposes on 3rd December 1990 by virtue of Article 2(e) of that Order

- (a) where he is a person to whom regulation 19 (persons formerly entitled to non-contributory invalidity pension) applies, on his first day of incapacity for work in a period of not less than 196 consecutive days which preceded the first day of his entitlement to a non-contributory invalidity pension;
- (b) where he has been continuously incapable of work for a period of longer than 196 consecutive days, on his first day of incapacity in that period; or
- (c) where he is a person to whom regulation 6 (modification of section 36(2) and (3) of the Act etc.) applies, on his first day of incapacity for work in a period of not less than 196 consecutive days which immediately preceded the first day on which he was previously entitled to a severe disablement allowance.

Circumstances in which days are to be treated as days of incapacity for work

10B. Where a person is treated as incapable of work for the purposes of section 36(2)(b) of the Act(a) because regulation 7(3) (days for which persons are to be treated as incapable of work etc.) applies to him, the days on which he was treated as incapable of work, under regulation 7(3), shall be treated as days of incapacity for work for the purpose of determining the day on which he qualified for severe disablement allowance under section 36A of the Act.’’.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 9th November 1990.

(L.S.)

A. N. Burns

Assistant Secretary

(a) 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 amended by paragraph 2 of Schedule 4 to the Social Security (Northern Ireland) Order 1985 (S.I. 1985/1209 (N.I. 16)) and paragraphs 2(5) and 6 of Schedule 8 to, and Schedule 9 to, the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13))

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations which come into operation on 3rd December 1990 further amend the Social Security (Severe Disablement Allowance) Regulations (Northern Ireland) 1984 ("the principal regulations"). They provide that for the purposes of section 36A of the Social Security (Northern Ireland) Act 1975, a person shall be treated as having qualified for a severe disablement allowance for the purposes of an age related addition—

- (a) on his first day of incapacity for work in a period of not less than 196 consecutive days which immediately preceded the day on which he became entitled to a non-contributory invalidity pension; or
- (b) on his first day of incapacity in a continuous period of incapacity which lasts longer than 196 consecutive days; or
- (c) on his first day of incapacity for work in a period of not less than 196 consecutive days which preceded the first day of entitlement to a previous severe disablement allowance;

and that days on which a person was capable of work and which satisfied regulation 7(3) of the principal regulations shall be treated as days of incapacity for work for the purpose of determining the day on which he qualified for severe disablement allowance.

Section 36A(4) of the Social Security (Northern Ireland) Act 1975 is the enabling provision under which these regulations are made. It was inserted by Article 4(1) of the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)) and brought into operation on 1st October 1990 by virtue of Article 2(a) of the Social Security (1990 Order) (Commencement No. 2) Order (Northern Ireland) 1990 (S.R. 1990 No. 351 (C. 14)).

These 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.

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This Order has been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. A summary is given in the List of Statutory Rules of a Local Character under the heading ROADS.