
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 225

SOCIAL SECURITY

**The Social Security (Disability Living Allowance,
Attendance Allowance and Claims and Payments)
(Amendment) Regulations (Northern Ireland) 1996**

Made - - - -

6th June 1996

Coming into operation

31st July 1996

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 67(2) and 72(8) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1) and sections 5(1)(j) and 71(1) of the Social Security Administration (Northern Ireland) Act 1992(2) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Disability Living Allowance, Attendance Allowance and Claims and Payments) (Amendment) Regulations (Northern Ireland) 1996 and shall come into operation on 31st July 1996.

Amendment of the Social Security (Claims and Payments) Regulations

2. In regulation 25 of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(3) (payment of attendance allowance, disability living allowance and constant attendance allowance at a daily rate)—

- (a) in the heading “the care component of a” shall be omitted;
- (b) in paragraph (1) the words “the care component of a”, in both places where they occur, shall be omitted.

(1) 1992 c. 7

(2) 1992 c. 8

(3) S.R. 1987 No. 465; regulation 25 is amended by S.R. 1992 No. 7

Amendment of the Social Security (Attendance Allowance) Regulations

3. In paragraph 1A of Schedule 2 to the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992(4) (persons to whom regulations 7 and 8 apply with modifications) “who has a preserved right” shall be omitted.

Amendment of the Social Security (Disability Living Allowance) Regulations

4.—(1) The Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(5) shall be amended in accordance with paragraphs (2) to (4) of this regulation.

(2) In regulation 1(2) after the definition of “care component” there shall be inserted the following definition—

““the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987;”.

(3) After regulation 12 (entitlement to the mobility component) there shall be inserted the following regulations—

“Hospitalisation in mobility component cases

12A.—(1) Subject to regulation 12B, it shall be a condition for the receipt of disability living allowance which is attributable to entitlement to the mobility component for any period in respect of any person that during that period he is not maintained free of charge while undergoing medical or other treatment as an in-patient—

- (a) in a hospital or similar institution under the Order or the 1991 Order; or
- (b) in a hospital or similar institution maintained or administered by the Defence Council.

(2) For the purposes of paragraph (1)(a) a person shall only be regarded as not being maintained free of charge in a hospital or similar institution during any period when his accommodation and services are provided under Article 31 of the Order(6) or paragraph 14 of Schedule 3 to the 1991 Order.

Exemption from regulation 12A

12B.—(1) Subject to paragraph (2), regulation 12A shall not apply to a person—

- (a) for the first 28 days; or
- (b) where he has not attained the age of 16, for the first 84 days,

of any period throughout which he is a person to whom paragraph (10) applies.

(2) Where, on the day on which a person’s entitlement to the mobility component commences, he is a person to whom paragraph (10) applies, paragraph (1) shall not apply to him for any period of consecutive days, beginning with that day, in which he continues to be a person to whom paragraph (10) applies.

(3) For the purposes of paragraphs (1) and (4), two or more distinct periods separated by an interval not exceeding 28 days, or by two or more such intervals, shall be treated as a continuous period equal in duration to the total of such distinct periods and ending on the last day of the later or last such period.

(4) Subject to paragraph (5) and regulation 12C, where—

(4) S.R. 1992 No. 20; Schedule 2 is inserted by S.R. 1994 No. 263 and paragraph 1A by S.R. 1995 No. 59

(5) S.R. 1992 No. 32; relevant amending regulations are S.R. 1994 No. 263 and S.R. 1995 No. 59

(6) Article 31 was substituted by Article 3(9) of the Health and Medicines (Northern Ireland) Order 1988 (S.I.1988/2249 (N.I. 24))

- (a) immediately before 31st July 1996, a person has, for a continuous period of not less than 365 days, been a person to whom paragraph (10) applies and in receipt of the mobility component and on 31st July 1996 is a person to whom that paragraph applies; or
- (b) on a day not more than 28 days prior to 31st July 1996, a person has, for a continuous period of not less than 365 days, been a person to whom paragraph (10) applies and in receipt of the mobility component, and on or after 31st July 1996 and not more than 28 days after the last day of the previous distinct period during which that paragraph applies, becomes a person to whom that paragraph again applies,

regulation 12A shall not apply until such time as paragraph (10) first ceases to apply to him for more than 28 consecutive days.

(5) Paragraph (4) shall not apply where on 31st July 1996 a person is detained under Part II or III of the Mental Health (Northern Ireland) Order 1986⁽⁷⁾.

(6) Where, on a day after 31st July 1996, a person—

- (a) becomes detained under Part II or III of the Mental Health (Northern Ireland) Order 1986; or
- (b) ceases to be entitled to the mobility component,

paragraph (4) shall cease to be applicable to that person and shall not again become applicable to him.

(7) Subject to regulation 12C, where—

- (a) on 31st July 1996, a person is a person to whom paragraph (10) applies and a Motability agreement entered into by or on behalf of that person is in force; or
- (b) a person becomes a person to whom paragraph (10) applies on a day after 31st July 1996 and on that day there is in force a Motability agreement entered into by or on behalf of that person,

regulation 12A shall, for the period following that referred to in paragraph (1)(a) or, as the case may be, paragraph (1)(b), continue not to apply to that person for the period referred to in paragraph (8) or, as the case may be, paragraph (9).

(8) Subject to paragraph (9), the period referred to in paragraph (7) shall terminate at the end of the period specified in regulation 43(3) or, as the case may be, regulation 43(4) of the Claims and Payments Regulations⁽⁸⁾, that is relevant to that Motability agreement.

(9) Where—

- (a) the Motability agreement was made under the scheme run by Motability for wheelchairs;
- (b) on the day immediately following the day that agreement ceases to be in force, a subsequent agreement of the same type is entered into by or on behalf of that person; and
- (c) on the day referred to in sub-paragraph (b), the person is a person to whom paragraph (10) applies,

the period referred to in paragraph (7) shall terminate at the end of the period specified in regulation 43(3) or, as the case may be, regulation 43(4) of the Claims and Payments Regulations, that is relevant to the last such Motability agreement.

(10) This paragraph refers to a person who is undergoing medical or other treatment in a hospital or similar institution in any of the circumstances referred to in regulation 12A.

⁽⁷⁾ S.I. 1986/595 (N.I. 4)

⁽⁸⁾ Regulation 43 is amended by S.R. 1990 No. 398 and S.R. 1992 No. 7

(11) For the purposes of paragraph (4), receipt of mobility allowance prior to 6th April 1992 shall be treated as receipt of the mobility component.

(12) In this regulation—

“Motability agreement” means an agreement such as is referred to in regulation 43(1) of the Claims and Payments Regulations (payment of disability living allowance on behalf of a beneficiary in settlement of liability for payments under an agreement for the hire or hire-purchase of a vehicle);

“Motability” means the company, set up under that name as a charity and originally incorporated under the Companies Act 1985(9) and subsequently incorporated by Royal Charter.

Adjustment of benefit to certain persons exempted from regulation 12A

12C.—(1) Subject to paragraph (3), where a person is a person to whom regulation 12B(4) applies and the mobility component would otherwise be payable at the higher rate prescribed by regulation 4(2)(a), the benefit shall be adjusted so that it is payable at the lower rate prescribed by regulation 4(2)(b).

(2) Subject to paragraph (3), where regulation 12B(7) applies, the benefit shall be adjusted so that it is payable at a rate equal to the weekly amount payable under the relevant agreement for the period referred to in that regulation.

(3) Where paragraphs (4) and (7) of regulation 12B both apply, the benefit shall be adjusted so that it is payable either at the lower rate prescribed by regulation 4(2)(b) or at a rate equal to the weekly amount payable under the relevant agreement referred to in regulation 12B(7), whichever is the greater.”.

(4) In paragraph 1A of Schedule 2A(10) (persons to whom regulations 9 and 10 apply with modifications) “who has a preserved right” shall be omitted.

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

L.S.

6th June 1996

W. G. Purdy
Assistant Secretary

(9) 1985 c. 6

(10) Schedule 2A is inserted by S.R. 1994 No. 263 and paragraph 1A is inserted by S.R. 1995 No. 596

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”), the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992 (“the Attendance Allowance Regulations”) and the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992 (“the Disability Living Allowance Regulations”).

Regulation 4(3) inserts new regulations 12A to 12C into the Disability Living Regulations.

New regulation 12A imposes a restriction on the payment of the mobility component of disability living allowance in respect of a person who is maintained free of charge while undergoing medical or other treatment as an in-patient in a hospital or similar institution under the health service or maintained by the Defence Council.

New regulation 12B provides for exemptions from regulation 12A for the first 28 days (84 days in the case of someone under 16 years of age) of free in-patient treatment. It also makes special provision for certain cases where a person in receipt of the mobility component of disability living allowance has been an in-patient whilst receiving that mobility component for 365 days or more before these Regulations come into operation. Exemptions are also provided in certain cases where the patient has a Motability agreement for the provision of a vehicle or wheelchair. The exemption will not continue where any subsequent agreement is entered into whilst the patient is still in hospital, unless such an agreement is an agreement made under the scheme run by Motability for wheelchairs.

New regulation 12C provides for benefit to be adjusted in certain cases where regulation 12B applies.

Regulation 2 makes a consequential amendment to regulation 25 of the Claims and Payments Regulations.

Regulations 3 and 4(4) make minor drafting amendments to Schedule 2 to the Attendance Allowance Regulations and Schedule 2A to the Disability Living Allowance Regulations.

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 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.