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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 229**

**The Social Security (Disability Living Allowance,  
Attendance Allowance and Carer's Allowance)  
(Amendment) Regulations (Northern Ireland) 2016**

**Amendment of the Social Security (Attendance Allowance) Regulations**

**3.—**(1) The Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992<sup>(1)</sup> are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (conditions as to residence and presence in Northern Ireland)—

(a) in paragraph(1)(2)—

(i) after “this regulation” insert “and regulations 2A and 2B”;

(ii) in sub-paragraph (a)(i), for “ordinarily resident in Northern Ireland”, substitute “habitually resident in the United Kingdom, the Republic of Ireland, the Isle of Man or the Channel Islands”; and

(iii) in sub-paragraph (a)(iii), for “26 weeks in the 52”, substitute “104 weeks in the 156”;

(b) in paragraph (2)—

(i) in sub-paragraph (a)(i), for “the Social Security (Contributions) Regulations 1979”, substitute “the Social Security (Contributions) Regulations 2001 (“the 2001 Regulations”)”; and

(ii) in sub-paragraph (a)(ii), for “regulation 80” to the end, substitute “regulation 111 and regulation 115 respectively of the 2001 Regulations.”;

(c) for paragraph (2)(d), substitute—

“or

(d) he is temporarily absent from Northern Ireland and that absence has not lasted for a continuous period exceeding 13 weeks.”;

(d) omit paragraph (2)(e) and the preceding “or”;

(e) after paragraph (3) add—

“(4) A person shall be treated as habitually resident in Northern Ireland for the purpose of paragraph (1)(a)(i) where—

(a) he is resident outside Northern Ireland in his capacity as a serving member of the forces and for this purpose “serving member of the forces” has the meaning given in regulation 1(2) of the 2001 Regulations; or

(b) he is living with a person mentioned in sub-paragraph (a) and is the spouse, civil partner, son, daughter, step-son, step-daughter, father, father-in-law, step-father, mother, mother-in-law or step-mother of that person.”;

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(1) S.R. 1992 No. 20. Relevant amending Regulations are S.R. 1994 No. 263, S.R. 1997 No. 69, S.R. 2000 No. 71 and S.R. 2007 No. 431.

(2) Paragraph (1) was amended by regulation 2 of S.R. 1997 No. 69 and regulation 8(a) of S.R. 2000 No. 71.

(f) after new paragraph (4) add—

“(5) Where a person is temporarily absent from Northern Ireland, he is treated as present in Northern Ireland for the purposes of paragraph (1)(a)(ii) and (iii) for the first 26 weeks of that absence, where—

(a) this absence is solely in connection with arrangements made for the medical treatment of him for a disease or bodily or mental disablement which commenced before he left Northern Ireland; and

(b) the arrangements referred to in sub-paragraph (a) relate to medical treatment—

(i) outside Northern Ireland,

(ii) during the period whilst he is temporarily absent from Northern Ireland, and

(iii) by, or under the supervision of, a person appropriately qualified to carry out that treatment, and

“medical treatment” means medical, surgical or rehabilitative treatment (including any course or diet or regimen), and references to a person receiving or submitting to medical treatment are to be construed accordingly.”; and

(g) after new paragraph (5) add—

“(6) For the purpose of paragraphs (2)(d) and (5) a person is “temporarily absent” if, at the beginning of the period of absence, that absence is unlikely to exceed 52 weeks.”.

(3) After regulation 2 insert—

**“Persons residing in Northern Ireland to whom a relevant EU Regulation applies**

**2A.**—(1) Regulation 2(1)(a)(iii) shall not apply where on any day—

(a) the person is habitually resident in Northern Ireland;

(b) a relevant EU Regulation applies; and

(c) the person can demonstrate a genuine and sufficient link to the United Kingdom social security system.

(2) For the purposes of paragraph (1)(b) and regulation 2B, “relevant EU Regulation” has the meaning given by Article 89(2) of the Welfare Reform (Northern Ireland) Order 2015.

**Persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU Regulation applies**

**2B.** Regulation 2(1)(a)(i) to (iii) shall not apply where on any day—

(a) the person is habitually resident in—

(i) an EEA state other than the United Kingdom; or

(ii) Switzerland;

(b) a relevant EU Regulation applies; and

(c) the person can demonstrate a genuine and sufficient link to the United Kingdom social security system.”.

(4) In regulation 7(3) (persons in care homes)—

(a) in paragraph (2)—

(i) omit “or” at the end of sub-paragraph (b); and

- (ii) after sub-paragraph (b), insert—
  - “(ba) section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002<sup>(4)</sup>; or”; and
- (b) in paragraph (3)—
  - (i) after sub-paragraph (d), insert “or”; and
  - (ii) omit sub-paragraph (f) and the preceding “or”.
- (5) In regulation 8A<sup>(5)</sup> (adjustment of allowance where medical expenses are paid from public funds under war pensions instruments)—
  - (a) in paragraph (1)—
    - (i) before the definition of “article 25B”, insert—
      - ““article 21” means article 21 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006<sup>(6)</sup> (medical expenses);”;
    - (ii) omit the definition of “article 26”; and
    - (iii) in the definition of “relevant accommodation” for “article 25B or article 26”, substitute “article 21 or article 25B”; and
  - (b) in paragraph (3), for “article 25B or article 26”, in both places, substitute “article 21 or article 25B”.

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<sup>(4)</sup> 2002 c. 6 (N.I.).

<sup>(5)</sup> Regulation 8A was inserted by regulation 2(4) of S.R. 1994 No. 263.

<sup>(6)</sup> S.I. 2006/606. Article 21 was amended by article 4 of S.I. 2006/1455.