

*A draft Order laid before both Houses of Parliament under section 4(2) of the Regulatory Reform Act 2001.*

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DRAFT STATUTORY INSTRUMENTS

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**2002 No.**

**REGULATORY REFORM  
SOCIAL SECURITY**

**The Regulatory Reform (Carer's Allowance) Order 2002**

*Made* - - - - 2002

*Coming into force—*

<i>for the purposes of exercising powers to make subordinate legislation</i>	<i>1st September 2002</i>
<i>for all other purposes except for the purposes of Article 2</i>	<i>28th October 2002</i>
<i>for the purposes of Article 2</i>	<i>1st April 2003</i>

Whereas—

- (a) the Secretary of State is of the opinion that this Order does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise;
- (b) the Secretary of State has consulted such organisations as appear to be representative of interests substantially affected by his proposals, the National Assembly for Wales and such other persons as he considers appropriate;
- (c) following that consultation, the Secretary of State considered it appropriate to proceed with the making of this Order;
- (d) a document containing the Secretary of State's proposals was laid before Parliament as required by section 6 of the Regulatory Reform Act 2001<sup>(1)</sup> and the period for Parliamentary consideration under section 8 of that Act expired;
- (e) the Secretary of State has had regard to representations made during this period, in particular to the Fifteenth Report of the Delegated Powers and Regulatory Reform Committee<sup>(2)</sup> and the Eighth Report of the Deregulation and Regulatory Reform Committee<sup>(3)</sup>;

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<sup>(1)</sup> 2001 c. 6.

<sup>(2)</sup> Fifteenth Report on 8th March 2002, HL 92, ISBN 0104788100.

<sup>(3)</sup> Eighth Report on 15th March 2002, HC 691, ISBN 0 215 00235 0.

- (f) a draft of this Order was laid before Parliament with a statement giving details of such representations and the Report, and of the changes to the Secretary of State's proposals in light of them; and
- (g) the draft was approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Works and Pensions, in exercise of the powers conferred upon him by section 1 of the Regulatory Reform Act 2001 and of all other powers enabling him in that behalf, hereby makes the following Order:

### **Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Regulatory Reform (Carer's Allowance) Order 2002 and shall come into force—

- (a) except for the purposes of Article 2, on 28th October 2002; and
- (b) for the purposes of Article 2—
  - (i) for the purposes of exercising powers to make subordinate legislation to come into force on or after 1st April 2003 (being powers or subordinate legislation which apart from Article 2 would refer to invalid care allowance), on 1st September 2002; and
  - (ii) for all other purposes, on 1st April 2003.

(2) In this Order—

- “the 1992 Act” means the Social Security Contributions and Benefits Act 1992(4); and
- “subordinate legislation” means Orders in Council, orders, rules, regulations, schemes and other instruments made under any Act.

### **Invalid care allowance to be known as carer's allowance**

2.—(1) Invalid care allowance shall be known as carer's allowance.

(2) The Schedule to this Order (which makes provision consequential on paragraph (1)) shall have effect.

### **Amendment of section 70 of the 1992 Act**

3.—(1) In section 70 of the 1992 Act (which provides for invalid care allowance), after subsection (1) there is inserted—

“(1A) A person who was entitled to an allowance under this section immediately before the death of the severely disabled person referred to in subsection (1) shall continue to be entitled to it, even though he is no longer engaged in caring for a severely disabled person (and the requirements of subsection (1)(a) and (c) are not satisfied), until—

- (a) the end of the week in which he ceases to satisfy any other requirement as to entitlement to the allowance; or
- (b) the expiry of the period of eight weeks beginning with the Sunday following the death (or beginning with the date of death if the death occurred on Sunday),

whichever occurs first.”.

(2) Subsections (5) and (6) of that section are hereby repealed.

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(4) 1992 c. 4. The relevant amending instrument is regulation 2(3) of S.I.1994/2556.

### **Transitional provision**

4. Notwithstanding the repeal of subsection (6) of section 70 of the 1992 Act, a person who had attained the age of 65 and was entitled to an allowance under that section immediately before 28th October 2002 shall continue to be so entitled, notwithstanding that he is not caring for a severely disabled person or no longer satisfies the requirements of subsection (1)(a) or (b) of that section, for as long as he continues to satisfy the other requirements for entitlement to the allowance specified in or under that section.

Signed by authority of the Secretary of State for Work and Pensions

Date

Parliamentary Under-Secretary of State,  
Department for Work and Pensions

## SCHEDULE

Article 2(2)

## AMENDMENTS TO ENACTMENTS CONSEQUENTIAL ON ARTICLE 2(1)

1. In the enactments mentioned in paragraphs 2 and 3 below, for the words “invalid care allowance” wherever they occur, there shall be substituted the words “carer’s allowance”, preceded, where appropriate, by “a” instead of “an”.
2. In the 1992 Act, the enactments are—
  - (a) in section 44A(5) (deemed earnings factors), subsection (2)(b);
  - (b) in section 63 (descriptions of non-contributory benefits), paragraph (c);
  - (c) in section 70 (invalid care allowance), subsections (1) and (9);
  - (d) section 90 (beneficiaries under sections 68 and 70);
  - (e) in section 150 (interpretation of Part X), subsection (1)(e);
  - (f) in Part III of Schedule 4 (rates of non-contributory periodical benefits), paragraph 4;
  - (g) in Part IV of that Schedule (rates of increase for dependants), paragraph 9.
3. In other legislation, the enactments are—
  - (a) in section 2A of the Social Security Administration Act 1992(6) (work-focused interviews), subsection (2)(g);
  - (b) in Schedule 2 to the Social Security Act 1998(7) (decisions against which no appeal lies), the cross-heading preceding paragraph 3;
  - (c) in section 115 of the Immigration and Asylum Act 1999(8) (exclusion from benefits), subsection (1)(c).

**EXPLANATORY NOTE***(This note is not part of the Order)*

This Order is made under section 1 of the Regulatory Reform Act 2001. It makes a number of reforms to section 70 of the Social Security Contributions and Benefits Act 1992 (“the Act”), which provides for an allowance (“invalid care allowance”) for those caring for severely disabled people.

Article 2 provides that the name of the allowance be changed to “carer’s allowance”, and brings into force the Schedule to this Order which makes consequential changes to the Act and other legislation.

Article 3(1) provides that a carer may continue to receive an allowance for a specified period after the death of the severely disabled person for whom he has been caring.

Article 3(2) repeals section 70(5) and (6) of the Act which, respectively, restricted the circumstances in which a person may be entitled to the allowance, and enabled provision to be made for such a person to continue to be entitled to the allowance despite his not satisfying all of the conditions of entitlement.

(5) 1992 c. 4; section 44A was inserted by section 30(3) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

(6) 1992 c. 5; section 2A was inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c. 30).

(7) 1998 c. 14.

(8) 1999 c. 33.

Article 4 preserves entitlement to an allowance in the case of any person over the age of 65 who is entitled to it immediately before this Order comes into force.