

*These notes refer to the Welfare Reform and Pensions Act
1999 (c.30) which received Royal Assent on 11 November 1999*

WELFARE REFORM AND PENSIONS ACT 1999

EXPLANATORY NOTES

COMMENTARY

Commentary

Section 66: Attendance Allowance

Regulation-making powers

Currently, the rules that specify the conditions of entitlement and the circumstances in which a person qualifies for Attendance Allowance (AA), are set out in primary legislation, in the Contributions and Benefits Act (sections 64(2) and 64(3)). The present lack of regulation-making powers in AA means, for example, that when proposed changes apply to both AA and Disability Living Allowance (DLA), which are very closely related benefits, it is not possible to introduce the changes simultaneously through regulations.

Subsection (1) introduces a regulation-making power for AA similar to the power to make regulations for DLA.

It inserts a *new section 64(4)* into the Contributions and Benefits Act, to create a power to prescribe circumstances in which the AA night attendance or day attendance conditions are, or are not, to be taken as met.

It is intended that the regulations would be used when the conditions of entitlement to AA needed to be amended or clarified: for example, if a judicial decision departed significantly from the policy intention.