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STATUTORY INSTRUMENTS

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**1993 No. 1739**

**The Social Security (Introduction of Disability Living Allowance) (Amendment) (No.2) Regulations 1993**

**Amendment of the principal Regulations**

2.—(1) The principal Regulations shall be amended in accordance with the following provisions of this regulation and in this regulation a reference to a numbered regulation is a reference to the regulation in the principal Regulations which bears that number.

(2) In regulation 1(2) (interpretation) 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 1987(1);”

(3) In regulation 13 (treatment of two awards of disability living allowance)(2)—

(a) in paragraph (1), after the word “then” there shall be inserted the words “subject to paragraph (1A)”;

(b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) Paragraph (1) shall not apply where the two awards referred to in paragraph (1) are for fixed periods ending on different days.”;

(c) in paragraph (2), sub-paragraph (c) shall be omitted;

(d) after paragraph (2) there shall be inserted the following paragraphs—

“(2A) Where, after 26th December 1993, a person has two awards of disability living allowance for fixed periods ending on different days those awards shall terminate on the day the shorter period ends if the adjudication officer has determined that an award for the component corresponding to the award which was for the shorter period should be made—

(a) for life, or

(b) for a period ending on the day the award for the longer fixed period ends.

(2B) A person whose awards of disability living allowance have been terminated by virtue of paragraph (2A) shall be treated, as from the day referred to in paragraph (2A), as having one award of disability living allowance—

(a) where sub-paragraph (2A)(a) applies, consisting of one component for life corresponding to the component which was for the shorter period under the terminated award and the other component for a fixed period ending on the day the award for that component would have ended but for the termination of the award under sub-paragraph (2A)(a) payable at the weekly rate which is the aggregate of the appropriate weekly rate for each of the components until the day on which the award for the fixed period ends and thereafter at the weekly rate which is the appropriate weekly rate for the component awarded for life;

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(1) S.I.1987/1968.

(2) Regulation 13 has been amended by regulation 2(2) of S.I. 1993/408.

(b) where sub-paragraph (2A)(b) applies, consisting of two components both of which are for fixed periods ending on the day the period the award for the component corresponding to the component which was for the longer period under the terminated award ends payable at the weekly rate which is the aggregate of the appropriate weekly rate for each of the components.

(2C) Where, after 26th December 1993, a person has two awards of disability living allowance for fixed periods ending on different days the adjudication officer shall not make an award following review or make a new award for a period ending on a date after the date on which the award for the longer period ends unless either—

- (a) both awards are reviewed or made as the case may be for a period ending on the same date; or
- (b) one award is for life.

(2D) Where, after 26th December 1993, a person who had two awards of disability living allowance for fixed periods ending on different days is awarded two awards of disability living allowance where either—

- (a) both awards are for fixed periods ending on the same day; or
- (b) one award is for life and one is for a fixed period,

those awards shall terminate immediately after they are made and the person shall be treated, as from that date, as having one award of disability living allowance consisting of either both components for a fixed period ending on the day the two awards of disability living allowance would have ended but for the termination of the awards under this paragraph or one component for life and one component for a fixed period ending on the day the two awards of disability living allowance would have ended but for the termination of the awards under this paragraph whichever is appropriate.

(2E) Where a person is treated as having one award of disability living allowance under paragraph (2D) the award shall be payable at the weekly rate which is the aggregate of the appropriate weekly rate for each of those components until the award for the fixed period ends and, if one component has been awarded for life, thereafter at the appropriate weekly rate for the component awarded for life.”;

(e) after paragraph (3) there shall be inserted the following paragraph—

“(3A) In this regulation, in relation to references to two awards for fixed periods ending on different days, a reference to the shorter period is a reference to the award which ends first and a reference to the longer period is a reference to the award that ends second notwithstanding that the shorter period may be of longer duration.”.

(4) In regulation 26 of the principal Regulations(3)—

(a) for paragraph (12), there shall be substituted the following paragraph—

“(12) Where a person—

- (a) before 6th April 1992 has an award of attendance allowance and of mobility allowance and—
  - (i) those awards are paid in a different manner, and
  - (ii) both awards are terminated in accordance with Parts II and III of these Regulations; or
- (b) has been awarded disability living allowance under regulation 11,

then the awards of disability living allowance shall be paid in accordance with paragraph (13).”;

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(3) Regulation 26 has been amended: the relevant amending instrument is S.I.1993/408, 1983/186, 1990/40.

(b) in paragraph (13) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) from such date before 27th December 1993 as the Secretary of State may in any particular case determine, on the day, for the period and, subject to paragraph (13A), in the manner determined by the Secretary of State;” and

(c) after paragraph (13) there shall be inserted the following paragraph—

“(13A) Where the person in respect of whom the award is made, or in the case of a child or a person unable to act the person to whom the allowance is payable by virtue of regulation 43 of the Claims and Payments Regulations<sup>(4)</sup>, has within 4 weeks of receiving notice of the Secretary of State’s determination under paragraph (13)(a) made an election which has been approved by the Secretary of State that he wishes the allowance to be paid in a manner other than that determined under paragraph (13)(a), the allowance shall be paid in the manner specified in the election from a date determined by the Secretary of State.”.

(5) In regulation 27, paragraph (5) shall be omitted.

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(4) Regulation 43 has been amended by regulation 21 of S.I.1991/2741.