

STATUTORY INSTRUMENTS

1991 No. 2890

The Social Security (Disability Living Allowance) Regulations 1991

PART III

CARE COMPONENT

Qualifying period for care component after an interval

6.—(1) The period prescribed for the purposes of [^{F1}section 72](2)(a)(ii) of the Act is a period of 3 months ending on the day on which the person was last entitled to the care component [^{F2}of disability living allowance, or the care component of child disability payment] or to attendance allowance where that day falls not more than 2 years before the date on which entitlement to the care component [^{F3}of disability living allowance, or the care component of child disability payment] would begin, or would have begun but for any regulations made under [^{F4}section 5(1)(k) of the Administration Act] (which enables regulations to provide for the day on which entitlement to benefit is to begin or end).

(2) Except in a case to which paragraph (3) applies, this regulation shall apply to a person to whom paragraph 3 or 7 of Schedule 1 refers as if for the reference to 3 months there was substituted a reference to 6 months.

(3) Paragraph (1) and not paragraph (2), shall apply to those persons referred to in paragraph (2) who, on the day before they attained the age of 65, had already completed the period of 3 months referred to in paragraph (1).

(4) For the purposes of paragraph (3), the modification made in Schedule 1—

(a) in paragraph 3(2) and 7(2), to [^{F5}section 72](2)(a) of the Act, and

(b) in paragraph 5(2), to [^{F6}section 73](9)(a) of the Act,

shall be treated as not having been made.

Textual Amendments

- F1** Words in reg. 6(1) substituted (26.8.1993) by [The Social Security \(Disability Living Allowance\) \(Amendment\) Regulations 1993 \(S.I. 1993/1939\)](#), regs. 1(1), **2(4)**
- F2** Words in reg. 6(1) inserted (21.3.2022) by [The Social Security \(Disability Assistance for Working Age People\) \(Consequential Amendments\) Order 2022 \(S.I. 2022/177\)](#), arts. 1(2), **4(3)(a)**
- F3** Words in reg. 6(1) inserted (21.3.2022) by [The Social Security \(Disability Assistance for Working Age People\) \(Consequential Amendments\) Order 2022 \(S.I. 2022/177\)](#), arts. 1(2), **4(3)(b)**
- F4** Words in reg. 6(1) substituted (26.8.1993) by [The Social Security \(Disability Living Allowance\) \(Amendment\) Regulations 1993 \(S.I. 1993/1939\)](#), regs. 1(1), **2(7)**
- F5** Words in reg. 6(4)(a) substituted (26.8.1993) by [The Social Security \(Disability Living Allowance\) \(Amendment\) Regulations 1993 \(S.I. 1993/1939\)](#), regs. 1(1), **2(4)**

F6 Words in reg. 6(4)(b) substituted (26.8.1993) by [The Social Security \(Disability Living Allowance\) \(Amendment\) Regulations 1993 \(S.I. 1993/1939\)](#) , regs. 1(1) , **2(5)**

Renal Dialysis

7.—(1) A person who suffers from renal failure and falls within the provisions in paragraph (2) shall be taken to satisfy—

- (a) where he undergoes renal dialysis by day, the conditions in paragraph (b) of subsection (1) of [^{F7}section 72] of the Act (severe physical or mental disability);
 - (b) where he undergoes renal dialysis by night, the conditions in paragraph (c) of that subsection; or
 - (c) where he undergoes renal dialysis by day and by night, the conditions in either paragraph (b) or paragraph (c) of subsection (1), but not both.
- (2) Subject to paragraph (3), a person falls within this paragraph—
- (a) if—
 - (i) he undergoes renal dialysis two or more times a week; and
 - (ii) the renal dialysis he undergoes is of a type which normally requires the attendance or supervision of another person during the period of the dialysis; or
 - (iii) because of the particular circumstances of his case he in fact requires another person, during the period of the dialysis, to attend in connection with his bodily functions or to supervise him in order to avoid substantial danger to himself; and
 - (b) if, where he undergoes dialysis as an out-patient in a hospital or similar institution, being treatment provided under [^{F8}the NHS Act of 1978, the NHS Act of 2006 or the NHS (Wales) Act of 2006], no member of the staff of the hospital or institution assists with or supervises the dialysis.

[^{F9}(3) Paragraph (2)(b) does not apply for the purpose of determining whether a person is to be taken to satisfy any of the conditions mentioned in paragraph (1) during the periods mentioned in section 72(2)(a)(i) and (b)(i) of the Act.]

(4) Except to the extent that provision is made in paragraph (2)(b), a person who undergoes treatment by way of renal dialysis as an out-patient in a hospital or similar institution, being treatment provided under [^{F10}the NHS Act of 1978, the NHS Act of 2006 or the NHS (Wales) Act of 2006], shall not be taken solely by reason of the fact that he undergoes such dialysis, as satisfying any of the conditions mentioned in subsection (1)(a) to (c) of [^{F11} section 72] of the Act.

Textual Amendments

- F7** Words in reg. 7(1) substituted (26.8.1993) by [The Social Security \(Disability Living Allowance\) \(Amendment\) Regulations 1993 \(S.I. 1993/1939\)](#) , regs. 1(1) , **2(8)(a)**
- F8** Words in reg. 7(2)(b) substituted (8.4.2013) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carers Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#) , regs. 1(2), **4(5)**
- F9** Reg. 7(3) substituted (26.8.1993) by [The Social Security \(Disability Living Allowance\) \(Amendment\) Regulations 1993 \(S.I. 1993/1939\)](#) , regs. 1(1) , **2(8)(b)**
- F10** Words in reg. 7(4) substituted (8.4.2013) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carers Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#) , regs. 1(2), **4(5)**

F11 Words in reg. 7(4) substituted (26.8.1993) by [The Social Security \(Disability Living Allowance\) \(Amendment\) Regulations 1993 \(S.I. 1993/1939\)](#) , regs. 1(1) , **2(8)(a)**

[^{F12}Hospitalisation of persons aged 18 or over]

8.—(1) Subject to [^{F13}paragraph (2B) and] regulation 10, it shall be a condition for the receipt of a disability living allowance which is attributable to entitlement to the care 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 health service hospital, within the meaning of [^{F14}the NHS Act of 1978, the NHS Act of 2006 or the NHS (Wales) Act of 2006]; or
- (b) in pursuance of arrangements made, or having effect as if made, by the Secretary of State, or any body in the exercise of functions on behalf of the Secretary of State under either of those Acts, in a hospital or similar institution; or
- (c) in a hospital or similar institution maintained or administered by the Defence Council or a National Health Service Trust; or
- (d) in a hospital or similar institution in pursuance of arrangements made by a member of a recognised fund-holding practice.

(2) For the purposes of paragraph (1) 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;

- [^{F15}(a) section 57 of, and paragraph 14 of Schedule 7A to, the NHS Act of 1978;
- (b) section 13 of, and paragraph 15 of Schedule 2 to, the NHS Act of 2006;
- (c) section 28 of, and paragraph 11 of Schedule 6 to, the NHS Act of 2006;
- (d) section 44(6) of, and paragraph 19(1) of Schedule 4 to, the NHS Act of 2006;
- (e) section 11 of, and paragraph 15 of Schedule 2 to, the NHS (Wales) Act of 2006;
- (f) section 18 of, and paragraph 19(1) of Schedule 3 to, the NHS (Wales) Act of 2006; or
- (g) section 22 of, and paragraph 11 of Schedule 5 to, the NHS (Wales) Act of 2006.]

[^{F16}(2A) For the purposes of paragraph (1), a period during which a person is maintained free of charge while undergoing medical or other treatment as an in-patient shall be deemed to begin on the day after the day on which he enters a hospital or other similar institution referred to in that paragraph and to end on the day [^{F17}before the day]on which he leaves such a hospital or other similar institution.]

[^{F18}(2B) This regulation does not apply to a person who was under the age of 18 on the day on which he entered the hospital or other similar institution referred to in paragraph (1) to begin his current period as an in-patient.]

(3) In this regulation—

- “National Health Service trust” has the meaning assigned to it by the NHS Act of 1990;
- “recognised fund-holding practice” shall be construed in accordance with section 14 of the NHS Act of 1990.

Textual Amendments

F12 Reg. 8 title substituted (29.6.2016) by [The Social Security \(Disability Living Allowance and Personal Independence Payment\) \(Amendment\) Regulations 2016 \(S.I. 2016/556\)](#), regs. 1(2), **2(2)(a)**

- F13** Words in reg. 8(1) inserted (29.6.2016) by The Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations 2016 (S.I. 2016/556), regs. 1(2), **2(2)(b)**
- F14** Words in reg. 8(1)(a) substituted (8.4.2013) by The Social Security (Disability Living Allowance, Attendance Allowance and Carer’s Allowance) (Amendment) Regulations 2013 (S.I. 2013/389), regs. 1(2), **4(6)(a)**
- F15** Reg. 8(2)(a)-(g) substituted (8.4.2013) by The Social Security (Disability Living Allowance, Attendance Allowance and Carer’s Allowance) (Amendment) Regulations 2013 (S.I. 2013/389), regs. 1(2), **4(6)(b)**
- F16** Reg. 8(2A) inserted (7.6.99) by S.I. 1999/1326, **reg. 1, 4**
- F17** Words in reg. 8(2A) inserted (19.6.2000) by The Social Security (Attendance Allowance and Disability Living Allowance) (Amendment) Regulations 2000 (S.I. 2000/1401), regs. 1, **3(2)**
- F18** Reg. 8(2B) added (29.6.2016) by The Social Security (Disability Living Allowance and Personal Independence Payment) (Amendment) Regulations 2016 (S.I. 2016/556), regs. 1(2), **2(2)(c)**

[F19] Persons in care homes

9.—(1) Except in the cases specified in paragraphs (3) to (5), and subject to regulation 10, a person shall not be paid any amount in respect of a disability living allowance which is attributable to entitlement to the care component for any period where throughout that period he is a resident in a care home in circumstances where any of the costs of any qualifying services provided for him are borne out of public or local funds under a specified enactment.

(2) The specified enactments for the purposes of paragraph (1) are—

- (a) (i) Part III of the National Assistance Act 1948,
- (ii) [F20sections 59 and 59A] of the Social Work (Scotland) Act 1968,
- (iii) the Mental Health (Care and Treatment) (Scotland) Act 2003,
- (iv) the Community Care and Health (Scotland) Act 2002,
- (v) the Mental Health Act 1983; F21 ...

[F22(vi) section 57 of the Health and Social Care Act 2001, F23 ...]

[F24(vii) Part 1 of the Care Act 2014 (care and support), F25 ...]

[F26(viii) Part 4 of the Social Services and Well-being (Wales) Act 2014 (meeting needs), or]

(b) any other enactment relating to persons under disability or to young persons or to education or training.

(3) Paragraph (2)(b) shall not apply in circumstances where any of the costs of the qualifying services provided for him are borne wholly or partly out of public or local funds by virtue of—

- (a) section 485 of the Education Act 1996, section 14 of the Education Act 2002 or section 73 of the Education (Scotland) Act 1980 (which relate to grants in aid of educational services);
- (b) F27 ... sections 49 or 73 of the Education (Scotland) Act 1980 (which relate respectively to the power of education authorities to assist persons to take advantage of educational facilities and the powers of the Secretary of State to make grants to education authorities and others);
- (c) section 65 of the Further and Higher Education Act 1992[F28, sections 39 or 40 of the Higher Education and Research Act 2017] or sections 4 or 11 of the Further and Higher Education (Scotland) Act 2005 (which relate respectively to the funding of further education and the administration of funds);

F29(d)

(e) section 22 of the Teaching and Higher Education Act 1998.

(4) Subject to paragraph (5), paragraphs (1) and (2) shall not apply in the case of a child ^{F30}...—

(a) [^{F31}who] has not attained the age of 16 and is being looked after by a local authority; or

(b) [^{F32}who] has not attained the age of 18 and to whom—

(i) section 17(10)(b) of the Children Act 1989 or section 93(4)(a)(ii) of the Children (Scotland) Act 1995 (impairment of health and development) applies because his health is likely to be significantly impaired, or further impaired, without the provision of services for him, or

(ii) section 17(10)(c) of the Children Act 1989 (disability) or section 93(4)(a)(iii) of the Children (Scotland) Act 1995 (disability) applies; or

[^{F33}(ba) to whom section 37, 38 or 42 of the Social Services and Well-being (Wales) Act 2014 applies; or]

(c) who is accommodated outside the United Kingdom and the costs of any qualifying services are borne wholly or partly by a local authority pursuant to their powers under section 320 of the Education Act 1996 or section 25 of the Education (Additional Support for Learning) (Scotland) Act 2004.

(5) Sub-paragraphs [^{F34}(a), (b) and (ba)] of paragraph (4) shall only apply during any period which the local authority looking after the child place him in a private dwelling with a family, or a relative of his, or some other suitable person.

(6) In this regulation and in regulation 10, references to the costs of any qualifying services shall not include the cost of—

(a) domiciliary services, including personal care, provided in respect of a person in a private dwelling; or

(b) improvements made to, or furniture or equipment provided for, a private dwelling on account of the needs of a person under disability; or

(c) improvements made to, or furniture or equipment provided for, a care home in respect of which a grant or payment has been made out of public or local funds except where the grant or payment is of a regular or repeated nature; or

(d) social and recreational activities provided outside the care home in respect of which grants or payments are made out of public or local funds; or

(e) the purchase or running of a motor vehicle to be used in connection with any qualifying service provided in a care home in respect of which grants or payments are made out of public or local funds; or

^{F35}(f)

(7) For the purposes of paragraph (1), a period during which a person is a resident in a care home in the circumstances set out in that paragraph shall, subject to paragraphs (8) and (9), be deemed—

(a) to begin on the day after the day on which he enters a care home, and

(b) to end on the day before the day on which he leaves a care home.

(8) Where a person enters a care home from a hospital or similar institution in circumstances in which paragraph (1) of regulation 6 applies, the period during which he is a resident in the care home shall be deemed to begin on the day he enters that care home.

(9) Where a person leaves a care home and enters a hospital or similar institution in circumstances in which paragraph (1) of regulation 6 applies, the period during which he is a resident in the care home shall be deemed to end on the day he leaves that care home]

Textual Amendments

- F19** Reg. 9 substituted (29.10.2007) by Social Security (Attendance Allowance and Disability Living Allowance) (Amendment) Regulations 2007 (S.I. 2007/2875), regs. 1(1), **3(2)** (with reg. 4(2))
- F20** Words in reg. 9(2)(a)(ii) substituted (8.4.2013) by The Social Security (Disability Living Allowance, Attendance Allowance and Carer's Allowance) (Amendment) Regulations 2013 (S.I. 2013/389), regs. 1(2), **4(7)(a)**
- F21** Word in reg. 9(2)(a)(v) omitted (1.11.2013) by virtue of The Community Care, Services for Carers and Children's Services (Direct Payments) (England) (Amendment) Regulations 2013 (S.I. 2013/2270), regs. 1(1), **6(a)**
- F22** Reg. 9(2)(a)(vi) inserted (1.11.2013) by The Community Care, Services for Carers and Children's Services (Direct Payments) (England) (Amendment) Regulations 2013 (S.I. 2013/2270), regs. 1(1), **6(b)**
- F23** Word in reg. 9(2)(a)(vi) omitted (1.4.2015) by virtue of The Care Act 2014 (Consequential Amendments) (Secondary Legislation) Order 2015 (S.I. 2015/643), art. 1(2), **Sch. para. 7(a)** (with art. 4)
- F24** Reg. 9(2)(a)(vii) inserted (1.4.2015) by The Care Act 2014 (Consequential Amendments) (Secondary Legislation) Order 2015 (S.I. 2015/643), art. 1(2), **Sch. para. 7(b)** (with art. 4)
- F25** Word in reg. 9(2)(a)(vii) omitted (3.11.2017) by virtue of The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), art. 1, **4(a)**
- F26** Reg. 9(2)(a)(viii) inserted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), art. 1, **4(b)**
- F27** Words in reg. 9(3)(b) omitted (8.4.2013) by virtue of The Social Security (Disability Living Allowance, Attendance Allowance and Carer's Allowance) (Amendment) Regulations 2013 (S.I. 2013/389), regs. 1(2), **4(7)(b)(i)**
- F28** Words in reg. 9(3)(c) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **17**
- F29** Reg. 9(3)(d) omitted (8.4.2013) by virtue of The Social Security (Disability Living Allowance, Attendance Allowance and Carer's Allowance) (Amendment) Regulations 2013 (S.I. 2013/389), regs. 1(2), **4(7)(b)(ii)**
- F30** Word in reg. 9(4) omitted (3.11.2017) by virtue of The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), art. 1, **4(c)**
- F31** Word in reg. 9(4)(a) inserted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), art. 1, **4(d)**
- F32** Word in reg. 9(4)(b) inserted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), art. 1, **4(d)**
- F33** Reg. 9(4)(ba) inserted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), art. 1, **4(e)**
- F34** Words in reg. 9(5) substituted (3.11.2017) by The Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 (S.I. 2017/901), art. 1, **4(f)**
- F35** Reg. 9(6)(f) omitted (8.4.2013) by virtue of The Social Security (Disability Living Allowance, Attendance Allowance and Carer's Allowance) (Amendment) Regulations 2013 (S.I. 2013/389), regs. 1(2), **4(7)(c)**

Persons to whom regulations 9 and 10 apply with modifications

^{F36}9A.

Textual Amendments
F36 Reg. 9A omitted (8.4.2002) by virtue of [Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2001 \(S.I. 2001/3767\)](#), regs. 1, **4(b)**

Exemption from regulation 8 and 9

10.—(1) Regulation 8, or as the case may be, regulation 9, shall not, [^{F37}subject to the following provisions of this regulation], apply to a person for the first 28 days of any period throughout which he is someone to whom paragraph (4) applies.

^{F38}(2)

(3) Where on the day the person’s entitlement to the care component commenced, he is a person to whom paragraph (4) refers, then paragraph (1) ^{F39}... 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 (4) refers.

(4) This paragraph refers to a person who—

(a) is undergoing medical or other treatment in a hospital or other institution in any of the circumstances mentioned in regulation 8; or

[^{F40}(b) would, but for this regulation, be prevented from receiving the care component of a disability living allowance by reason of regulation 9(1).]

(5) For the purposes of [^{F41}paragraph (1)]—

(a) 2 or more distinct periods separated by an interval not exceeding 28 days, or by 2 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;

(b) any period or periods to which regulation 8(1) or 9(1) refers shall be taken into account and aggregated with any period to which the other of them refers.

[^{F42}(6) Regulation 8 or as the case may be regulation 9 shall not apply ^{F43}... in the case of a person who is residing in a hospice and is terminally ill where the Secretary of State has been informed that he is terminally ill—

(a) on a claim for the care component,

(b) on an application for a [^{F44}revision under section 9 of the 1998 Act or supersession under section 10 of that Act] of an award of disability living allowance, or

(c) in writing in connection with an award of, or a claim for, or an application for a [^{F45}revision under section 9 of the 1998 Act or supersession under section 10 of that Act] of an award of, disability living allowance.

(7) In paragraph (6) “hospice” means a hospital or other institution[^{F46}whose primary function is to provide palliative care for persons resident there who are suffering from a progressive disease in its final stages] other than—

^{F47}(a)

(b) a health service hospital (within the meaning of section 108(1) of the NHS Act of 1978) in Scotland;

- [a health service hospital (within the meaning of section 275 of the NHS Act of 2006)^{F48}(ba) in England;
- (bb) a hospital in Wales vested in—
 - (i) an NHS Trust;
 - (ii) a Local Health Board; or
 - (iii) the Welsh Ministers, for the purpose of functions under the NHS (Wales) Act of 2006;]
 - (c) a hospital maintained or administered by the Defence Council; or
 - (d) an institution similar to a hospital mentioned in any of the preceding sub-paragraphs of this paragraph.

[^{F49}(8) Regulation 9 shall not apply in any particular case for any period during which the whole costs of all of the qualifying services are met—

- (a) out of the resources of the person for whom the qualifying services are provided, or partly out of his own resources and partly with the assistance from another person or a charity, or
- (b) on his behalf by another person or a charity.]]

[^{F50}(8A) For the purpose of paragraph (7)(bb)—

- (a) “NHS Trust” means a body established under section 18 of the NHS (Wales) Act of 2006; and
- (b) “Local Health Board” means a body established under section 11 of the NHS (Wales) Act of 2006.]

^{F51}(9)

Textual Amendments

- F37** Words substituted (1.4.93) in reg. 10(1) by S.I. 1992/3147, **reg. 7(2)(a)**, reg. 1
- F38** Reg. 10(2) omitted (29.6.2016) by virtue of [The Social Security \(Disability Living Allowance and Personal Independence Payment\) \(Amendment\) Regulations 2016](#) (S.I. 2016/556), regs. 1(2), **2(3)(a)**
- F39** Words in reg. 10(3) omitted (29.6.2016) by virtue of [The Social Security \(Disability Living Allowance and Personal Independence Payment\) \(Amendment\) Regulations 2016](#) (S.I. 2016/556), regs. 1(2), **2(3)(b)**
- F40** Reg. 10(4)(b) substituted (6.4.92) by S.I. 1992/633, **Reg. 2(4)**, reg. 1
- F41** Words in reg. 10(5) substituted (29.6.2016) by [The Social Security \(Disability Living Allowance and Personal Independence Payment\) \(Amendment\) Regulations 2016](#) (S.I. 2016/556), regs. 1(2), **2(3)(c)**
- F42** Reg. 10(6)-(8) inserted (1.4.93) by S.I. 1992/3147 reg. 1,7
- F43** Words in reg. 10(6) omitted (19.6.2000) by virtue of [The Social Security \(Attendance Allowance and Disability Living Allowance\) \(Amendment\) Regulations 2000](#) (S.I. 2000/1401) , regs. 1 , **3(4)(a)**
- F44** Words in reg. 10(6)(b) substituted (18.10.99) by S.I. 1999/2860, **Sch. 7**, para 4, reg. 1
- F45** Words in reg. 10(6)(c) substituted (18.10.99) by S.I. 1999/2860, **Sch. 7**, para 4, reg. 1
- F46** Words inserted in reg. 10(7) (1.9.93) by S.I. 1993/518, **reg 3(3)(b)**, reg. 1
- F47** Reg. 10(7)(a) omitted (8.4.2013) by virtue of [The Social Security \(Disability Living Allowance, Attendance Allowance and Carer’s Allowance\) \(Amendment\) Regulations 2013](#) (S.I. 2013/389), regs. 1(2), **4(8)(a)**
- F48** Reg. 10(7)(ba) - Reg. 10(7)(bb) inserted (8.4.2013) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carer’s Allowance\) \(Amendment\) Regulations 2013](#) (S.I. 2013/389), regs. 1(2), **4(8)(b)**
- F49** Reg. 10(8) substituted (29.10.2007) by [Social Security \(Attendance Allowance and Disability Living Allowance\) \(Amendment\) Regulations 2007](#) (S.I. 2007/2875) , regs. 1(1) , **3(3)**

- F50** Reg. 10(8A) inserted (8.4.2013) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carers Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **4(8)(c)**
- F51** Reg. 10(9) omitted (19.6.2000) by virtue of [The Social Security \(Attendance Allowance and Disability Living Allowance\) \(Amendment\) Regulations 2000 \(S.I. 2000/1401\)](#), regs. 1, **3(4)(c)**

[^{F52}Adjustment of allowance where medical expenses are paid from public funds under war pensions instruments

10A.—(1) In this regulation—

“article 25B” means article 25B of the Personal Injuries (Civilians) Scheme 1983 (medical expenses) and includes that article as applied by article 48B of that Scheme;

“article [^{F53} 21] ” means article [^{F53} 21] of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order [^{F54} 2006] (medical expenses);

and in this regulation and regulation 10B “relevant accommodation” means accommodation provided as a necessary ancillary to nursing care where the medical expenses involved are wholly borne by the Secretary of State pursuant to article 25B or article [^{F53}21].

(2) This regulation applies where a person is provided with relevant accommodation.

(3) Subject to regulation 10B, where this regulation applies and there are payable in respect of a person both a payment under article 25B or article [^{F55}21] and a disability living allowance which is attributable to the care component, the allowance, in so far as it is so attributable, shall be adjusted by deducting from it the amount of the payment under article 25B or article [^{F55}21], as the case may be, and only the balance shall be payable.

Textual Amendments

- F52** Reg. 10A and 10B inserted (1.8.1994) by [S.I. 1994/1779](#) reg. 3(4)
- F53** Word in reg. 10A(1) substituted (8.4.2013) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carers Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **4(9)(a)(i)**
- F54** Word in reg. 10A(1) substituted (8.4.2013) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carers Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **4(9)(a)(ii)**
- F55** Word in reg. 10A(3) substituted (8.4.2013) by [The Social Security \(Disability Living Allowance, Attendance Allowance and Carers Allowance\) \(Amendment\) Regulations 2013 \(S.I. 2013/389\)](#), regs. 1(2), **4(9)(b)**

Exemption from regulation 10A

10B.—(1) Regulation 10A shall not, subject to the following provisions of this regulation, apply to a person in respect of the first 28 days of any period during which the amount of any disability living allowance attributable to the care component would be liable to be adjusted by virtue of regulation 10A(3).

(2) For the purposes of paragraph (1) 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 aggregate of such distinct periods and ending on the last day of the later or last such period.

(3) For the purposes of this paragraph a day is a relevant day in relation to a person if it fell not earlier than 28 days before the first day on which he was provided with relevant accommodation; and either—

- (a) was a day when he was undergoing medical treatment in a hospital or similar institution in any of the circumstances mentioned in regulation 8; or
- (b) was a day when he was, or would but for regulation 10 have been, prevented from receiving a disability living allowance attributable to the care component by virtue of regulation 9(1);

and where there is in relation to a person a relevant day, paragraph (1) shall have effect as if for “28 days” there were substituted such lesser number of days as is produced by subtracting from 28 the number of relevant days in his case.]

Textual Amendments

F52 Reg. 10A and 10B inserted (1.8.1994) by [S.I. 1994/1779](#) reg. 3(4)

[^{F56}Prescribed circumstance for entitlement to the care component

10C. For the purposes of section 72(7) of the Act (prescribed circumstances in which a person is to be taken to satisfy or not to satisfy the conditions mentioned in section 72(1)(a) to (c) of that Act), a person shall not be taken to satisfy subsection (1)(a)(i) or (b)(i) (day attention) or (c)(i) (night attention) unless the attention the severely disabled person requires from another person is required to be given in the physical presence of the severely disabled person.]

Textual Amendments

F56 Reg. 10C inserted (25.9.2000) by [The Social Security \(Attendance Allowance and Disability Living Allowance\) \(Amendment\) \(No. 2\) Regulations 2000 \(S.I. 2000/2313\)](#), regs. 1, 3

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Disability Living Allowance) Regulations 1991, PART III.