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STATUTORY INSTRUMENTS

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**1991 No. 2891**

**The Social Security (Introduction of Disability Living Allowance) Regulations 1991**

**PART IV**

**PROVISIONS COMMON TO PARTS II AND III**

**Separate awards of attendance allowance and mobility allowance**

**11.**—(1) Where—

- (a) a person has an award of attendance allowance terminated or cancelled under Part II of these Regulations and an award of mobility allowance terminated or cancelled under regulation 7, and
- (b) awards of disability living allowance are treated as made in accordance with Parts II and III of these Regulations,

those awards shall be separate awards.

(2) Where a person—

- (a) has an award of attendance allowance or mobility allowance, but not both for a period commencing before 6th April 1992;
- (b) in accordance with Parts II and III of these Regulations is treated as from 6th April 1992 as having one award of disability living allowance consisting of either the care component or the mobility component;
- (c) claims, or is treated as claiming, disability living allowance but only in respect of the component which is not the subject of the award mentioned in sub-paragraph (b) above; and
- (d) is awarded disability living allowance for that component on that claim for a period beginning on or after 6th April 1992, but before 5th April 1993,

the award so made shall be in addition to the award of disability living allowance treated as arising under Parts II and III of these Regulations.

**Backdating of awards of disability living allowance**

**12.**—(1) This regulation applies where—

- (a) a person claims or is treated as claiming attendance allowance or mobility allowance before 6th April 1992;
- (b) the decision on the claim is given after 2nd February 1992; and
- (c) the decision on the claim was that the person was not entitled to either of those benefits.

(2) Where such a person submits a claim for disability living allowance within 3 months of the date the decision on the claim was notified to him, any award of disability living allowance arising from the later claim may, notwithstanding section 37ZE(1) of the 1975 Act, be for a period

commencing on such earlier date (but not before 6th April 1992) as the authority determining the claim decide the person satisfied the appropriate conditions of entitlement thereto.

(3) Notwithstanding section 37ZD(1) of the 1975 Act, a person who has attained the age of 65, but not the age of 66, on 6th April 1992, shall be entitled to disability living allowance where, in addition to satisfying the appropriate conditions of entitlement to that allowance, he made a claim for it within 3 months of the date on which he was so notified of the decision on the claim for attendance allowance or mobility allowance.

(4) Any award made by virtue of paragraph (3) shall, notwithstanding section 37ZE(1) of the 1975 Act be for a period commencing on—

- (a) 6th April 1992, or, if later,
- (b) the date he first satisfies the appropriate conditions of entitlement to disability living allowance (other than the need to make a claim for it).

(5) In this regulation, the “claim” in the expression “decision on the claim” is the claim referred to in sub-paragraph (a) of paragraph (1) and the “decision” is the first decision given on that claim by an adjudicating authority after 2nd February 1992.

(6) This regulation applies to an application made under section 104(2) or 106(1) of the 1975 Act for a review of a determination as it applies to a claim for benefit but as if the application was the claim and the decision was the decision given on that application.

**Treatment of two awards of disability living allowance**

13.—(1) Where a person has two awards of disability living allowance both of which are for periods which commence before [<sup>F1</sup>27th December 1993] and expire after [<sup>F2</sup>26th December 1993], then [<sup>F3</sup>subject to paragraph (1A)] those awards shall both terminate immediately before [<sup>F1</sup>27th December 1993].

[<sup>F4</sup>(1A) Paragraph (1) shall not apply where the two awards referred to in paragraph (1) are for fixed periods ending on different days.]

(2) A person whose awards of disability living allowance have been terminated by virtue of paragraph (1) shall be treated, as from [<sup>F5</sup>27th December 1993], as having been granted one award of disability living allowance—

- (a) where both the awards terminated by virtue of paragraph (1) were for life, consisting of both components for life, payable at a weekly rate which is the aggregate of the appropriate weekly rate for each of those components;
- (b) where one of the awards terminated by virtue of paragraph (1) was for life and the other was for a fixed period, consisting of one component for life, corresponding to the component which was for life under the terminated award, and the other component for a fixed period ending on the day the award for the fixed period would have ended but for the termination of the award under paragraph (1), and payable at the weekly rate which is the aggregate of the appropriate weekly rate for each of the components from [<sup>F5</sup>27th December 1993] until the day the period of the fixed award ends, and thereafter at the weekly rate which is the appropriate weekly rate for the component awarded for life;

<sup>F6</sup>(c) .....

- (d) where both awards terminated by virtue of paragraph (1) were for fixed periods ending on the same day, consisting of both components for a period ending on that day, payable at the weekly rate which is the aggregate of the appropriate weekly rate for each of those components.

[<sup>F7</sup>(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;
- (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.]

(3) In this regulation, the “appropriate weekly rate” in relation to either component of disability living allowance is the rate which corresponds to the rate payable for that component under any award terminated in accordance with [F8 paragraph (1), (2A) or (2D)].

[F9(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) An award of disability living allowance granted in accordance with this regulation shall continue for the period of the award only so long as the person to whom the award is treated as having been granted continues to satisfy—

- (a) conditions as to residence and presence prescribed under section 37ZA(6) of the 1975 Act, and
- (b) any other conditions of entitlement appropriate to that award specified in sections 37ZA to 37ZE of the 1975 Act.

<b>F1</b>	Words in reg. 13(1) substituted (1.4.1993) by <a href="#">The Social Security (Introduction of Disability Living Allowance) (Amendment) Regulations 1993 (S.I. 1993/408)</a> , regs. 1, <b>2(2)(a)(ii)</b>
<b>F2</b>	Words in reg. 13(1) substituted (1.4.1993) by <a href="#">The Social Security (Introduction of Disability Living Allowance) (Amendment) Regulations 1993 (S.I. 1993/408)</a> , regs. 1, <b>2(2)(a)(i)</b>
<b>F3</b>	Words in reg. 13(1) inserted (6.8.1993) by <a href="#">The Social Security (Introduction of Disability Living Allowance) (Amendment) (No.2) Regulations 1993 (S.I. 1993/1739)</a> , regs. 1(1), <b>2(3)(a)</b>
<b>F4</b>	Reg. 13(1A) inserted (6.8.1993) by <a href="#">The Social Security (Introduction of Disability Living Allowance) (Amendment) (No.2) Regulations 1993 (S.I. 1993/1739)</a> , regs. 1(1), <b>2(3)(b)</b>
<b>F5</b>	Words in reg. 13(2) substituted (1.4.1993) by <a href="#">The Social Security (Introduction of Disability Living Allowance) (Amendment) Regulations 1993 (S.I. 1993/408)</a> , regs. 1, <b>2(2)(b)</b>
<b>F6</b>	Reg. 13(2)(c) omitted (6.8.1993) by virtue of <a href="#">The Social Security (Introduction of Disability Living Allowance) (Amendment) (No.2) Regulations 1993 (S.I. 1993/1739)</a> , regs. 1(1), <b>2(3)(c)</b>
<b>F7</b>	Reg. 13(2A)-(2E) inserted (6.8.1993) by virtue of <a href="#">The Social Security (Introduction of Disability Living Allowance) (Amendment) (No.2) Regulations 1993 (S.I. 1993/1739)</a> , regs. 1(1), <b>2(3)(d)</b>
<b>F8</b>	Words in reg. 13(3) substituted (25.11.1993) by <a href="#">The Social Security (Introduction of Disability Living Allowance) (Amendment) (No. 3) Regulations 1993 (S.I. 1993/2704)</a> , regs. 1, <b>2(3)</b>
<b>F9</b>	Reg. 13(3A) inserted (6.8.1993) by <a href="#">The Social Security (Introduction of Disability Living Allowance) (Amendment) (No.2) Regulations 1993 (S.I. 1993/1739)</a> , regs. 1(1), <b>2(3)(e)</b>

## Reviews

14.—(1) Where a person is treated as having been awarded disability living allowance under any of the preceding provisions of these Regulations, sections 100A(1), (2) and (4) and 104A(1) of the 1975 Act (reviews of decision given by the adjudication officer and the appellate authorities) shall have effect in his case as if the decision there mentioned was the decision which was referable to the award of disability living allowance.

(2) For the purposes of this regulation, a decision is referable to an award of disability living allowance if—

- (a) it was a decision awarding attendance allowance or mobility allowance to such a person and the decision was terminated or cancelled in accordance with Part II or Part III of these Regulations and replaced by the person's current award of disability living allowance, or was so terminated or cancelled and replaced by an award of disability living allowance which was itself terminated under regulation 13 and replaced by the person's current award of disability living allowance; or
  - (b) it was a decision awarding disability living allowance to such a person which was terminated in accordance with regulation 13 and replaced by the person's current award of disability living allowance.
- (3) A decision is also referable to an award of disability living allowance where it was—

- (a) a decision of the Attendance Allowance Board on a matter reserved for the Board's determination under section 105(3) of the 1975 Act and the decision to award attendance allowance mentioned in paragraph (2)(a) was dependant upon the Board's decision; or
  - (b) a decision of a medical board or a medical appeal tribunal on a medical question and the decision awarding mobility allowance mentioned in paragraph (2)(a) was dependant upon the board's or, as the case may be, the tribunal's decision.
- (4) In paragraph (3) "medical board" means 2 or more adjudicating medical practitioners appointed by the Secretary of State to act jointly in consideration of the medical question, and "medical question" has the meaning it bore in regulation 53 of the Social Security (Adjudication) Regulations 1986 <sup>M1</sup> on 3rd February 1992.

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**Marginal Citations**

**M1** [S.I. 1986/2218](#); [regulation 53](#) was amended by regulation 2(2) and (3) of [S.I. 1988/1725](#) and regulation 3 of [S.I. 1989/1689](#).

**Changes to legislation:**

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