

---

STATUTORY INSTRUMENTS

---

**1991 No. 2891**

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

**PART V**

**CLAIMS, PAYMENTS AND ADJUDICATION**

**Second tier adjudication**

**15.** For the purposes of this Part of these Regulations, the expression “second tier adjudication” means adjudication by an adjudication officer; and for those purposes section 100D(I) of the 1975 Act (appeals following reviews) shall apply to any decision given by the adjudication officer as if it was a decision given by him on a review under section 100A(1) of that Act<sup>M1</sup> (review of a decision on any ground).

**Marginal Citations**

**M1** Section 100A was inserted by the [Disability Living Allowance and Disability Working Allowance Act 1991 \(c.21\)](#), [Schedule 1](#), paragraph 5.

**Claims for a single component of disability living allowance**

**16.—(1)** Where a person—

- (a) had an award of attendance allowance or mobility allowance, but not both for a period commencing before 6th April 1992; and
- (b) in accordance with the above regulations is treated as from 6th April 1992 as having one award of disability living allowance at the weekly rate applicable in his case to either the care component or the mobility component, he may submit a claim for a disability living allowance relating solely to that component to which he has no entitlement.

(2) Any such claim made after 4th April 1993 shall be treated as an application for a review under section 100A(1) of the 1975 Act, if made within the period prescribed under that provision, or if not, under section 100A(2) of that Act, of an award of disability living allowance in force at the time the claim is made.

(3) Subject to paragraph (4), an award of disability living allowance consisting of one component may be made by virtue of this regulation in addition to any award of disability living allowance consisting only of the other component which is treated as having been made to the claimant in accordance with the preceding provisions of these Regulations.

(4) An award shall not be made in accordance with Paragraph (3) where the period of the award would commence after 4th April 1993.

(5) Where a claim submitted in accordance with paragraph (1) is received in an office of the Department of Social Security or the [<sup>F1</sup>Department for Education and Employment] before 5th April

1993, any award on that claim may, notwithstanding anything in section 37ZE(1) of the 1975 Act<sup>M2</sup>, commence on a date not earlier than 6th April 1992.

---

**Textual Amendments**

- F1** Words in reg. 16(5) substituted (1.1.1996) by [The Transfer of Functions \(Education and Employment\) Order 1995 \(S.I. 1995/2986\)](#), arts. 1, **6(5)**
- 

**Marginal Citations**

- M2** Section 37ZE was inserted in the [Social Security Act 1975 \(c. 14\)](#) by the [Disability Living Allowance and Disability Working Allowance Act 1991 \(c.21\)](#), **section 1**.

**Claims in addition**

17.—(1) This regulation applies in a case where an adjudicating authority in determining a person's claim for, or application for a review of a decision relating to, disability living allowance is satisfied that the person satisfies the conditions of entitlement to the care component which qualify him for the highest or the middle of the three rates prescribed under section 37ZB(3) of the 1975 Act or to the mobility component which qualify him for the higher of the 2 rates prescribed under section 37ZC(10) of that Act or to both, and that the person is neither—

- (a) entitled to attendance allowance or mobility allowance or both, nor
- (b) awaiting a determination by an adjudicating authority on—
  - (i) a claim made by him or on his behalf for one or both of those benefits, or
  - (ii) an application for review, made in accordance with section 104(2) of the 1975 Act, of a decision relating to one or both of those benefits, or
  - (iii) an appeal from a decision given on a claim or application for review of a decision relating to one or both of those benefits.

(2) Subject to paragraphs (3) and (4), where in determining a person's claim for, or application for a review of a decision relating to, disability living allowance in a case to which this regulation applies, an adjudicating authority is satisfied that the person—

- (a) in addition to satisfying the conditions of entitlement to the care component, also satisfied the conditions of entitlement to attendance allowance for a period before 6th April 1992; or
- (b) in addition to satisfying the conditions of entitlement to the mobility component, also satisfied conditions of entitlement to mobility allowance, for a period before 6th April 1992,

other than the condition that he makes a claim for the benefit in question in the manner and within the time prescribed in relation thereto, the authority shall treat the claim for disability living allowance, or in the case of an application for review of the decision relating to disability living allowance, the claim on which that decision was made, as a claim also for—

- (i) attendance allowance, where sub-paragraph (a) above is satisfied,
- (ii) mobility allowance, where sub-paragraph (b) above is satisfied,
- (iii) attendance allowance and mobility allowance, where sub-paragraph (a) and sub-paragraph (b) are satisfied,

and determine that claim accordingly.

(3) Where a claim for disability living allowance is a claim for a single component in accordance with regulation 16 then paragraph (2) shall apply only where the adjudicating authority is satisfied the person fulfils or fulfilled the conditions of entitlement to—

- (a) attendance allowance, where the claim is for the care component, or
- (b) mobility allowance where the claim is for the mobility component.

(4) Any award of mobility allowance or attendance allowance arising on a claim treated as made in accordance with paragraph (2) shall be for a period ending not later than 5th April 1992.

(5) Where an adjudicating authority is satisfied that the person whose claim or application he is determining satisfies the conditions of entitlement to mobility allowance for a period before 6th April 1992, then he shall determine that claim or application as if in section 37ZC of the 1975 Act, paragraph (a) of subsection (9) was omitted.

### **Claim for disability living allowance treated as not having been made**

**18.**—(1) Subject to the following provisions of this regulation, a claim for a disability living allowance shall be treated as not having been made where the person who made the claim, or on whose behalf the claim was made—

- (a) has an award of both attendance allowance and mobility allowance and each award is for a period due to expire after 5th April 1992, or
- (b) has an existing award of disability living allowance, consisting of both components, or
- (c) has two existing awards of disability living allowance, where one award consists of the care component and the other award consists of the mobility component, or
- (d) has an award of disability living allowance consisting of one component and has in addition submitted another claim for a single component of that benefit in accordance with regulation 16.

(2) Paragraph (1) shall not apply where the claim for a disability living allowance is made in anticipation of the expiration of the award of attendance allowance or of mobility allowance or of disability living allowance.

### **Claims for attendance allowance or mobility allowance treated as not having been made**

**19.** Where after 2nd February 1992 a person has made a claim for disability living allowance, then any claim [<sup>F2</sup>for attendance allowance or mobility allowance made on or after the day on which the claim for disability living allowance was made shall be treated as not having been made].

#### **Textual Amendments**

**F2** Words in reg. 19 substituted (16.3.92) by S.I. 1992/728, reg. 1, 2

### **Claim for disability living allowance where person has an award of attendance allowance or mobility allowance**

**20.**—(1) Subject to paragraph (3) where a person—

- (a) has an award of attendance allowance, and
- (b) makes a claim for disability living allowance,

the claim for the care component shall be treated as not having been made.

(2) Subject to paragraph (3) where a person—

- (a) has an award of mobility allowance, and
- (b) makes a claim for disability living allowance,

the claim for the mobility component shall be treated as not having been made.

(3) Where the claim for disability living allowance is made in anticipation of the expiry of an award of attendance allowance or of mobility allowance, then paragraph (1) or, as the case may be, paragraph (2) shall not apply.

### **Claims for both old and new benefits outstanding**

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

- (a) a claim to either mobility allowance or attendance allowance, or both has been made by or on behalf of a person;
- (b) the claim or claims have not been determined by 3rd February 1992, or if it or they have been determined the decision given was that no award be made and an application for review of that decision or an appeal to an appeal tribunal from that decision awaits determination on or after 3rd February 1992; and
- (c) a claim for disability living allowance is made by the person mentioned in subparagraph (a) before the determination on the claim or, as the case may be, the application or appeal, is made.

(2) Where the person mentioned in paragraph (1)(a) has claimed—

- (a) attendance allowance, but not mobility allowance, the claim for disability living allowance shall be treated, until the claim, application or appeal is determined, as a claim for mobility component only;
- (b) mobility allowance, but not attendance allowance, the claim for disability living allowance shall be treated, until the claim, application or appeal is determined, as a claim for care component only;
- (c) attendance allowance and mobility allowance, the claim for disability living allowance shall be treated, until the claims, applications or appeals in respect of both those benefits are determined, as not having been made.

(3) When the claim, application or appeal is or both are determined and—

- (a) the person is awarded attendance allowance, then the claim for care component shall be treated as not having been made;
- (b) the person is awarded mobility allowance, then the claim for mobility component shall be treated as not having been made;
- (c) the person is awarded both attendance allowance and mobility allowance, then the claim for disability living allowance shall continue to be treated as not having been made;
- (d) no award is made, the claim for disability living allowance in so far as it has not been determined, shall then be referred to the adjudication officer for his determination.

### **Determination of claims for, or of applications for review of decisions relating to, attendance allowance**

**22.**—(1) The Attendance Allowance Board shall not consider any question reserved for their determination under section 105(3) of the 1975 Act where the claim for, or application for a review of a decision relating to, attendance allowance was made after 15th March 1992, whether or not the person to whom the question refers has attained the age of 65.

(2) In a case to which paragraph (1) applies, the adjudication officer shall determine the claim or application in accordance with the system of adjudication for attendance allowance introduced by the Act.

(3) Any question referred for determination by the Attendance Allowance Board in accordance with section 105(3) or 106(1) of the 1975 Act which has not been determined by 5th April 1992, shall be determined as soon as reasonably practicable thereafter in accordance with paragraph (4).

(4) For the purposes of paragraph (3), the question shall be determined—

- (a) except in a case to which sub-paragraph (b) applies, by the adjudication officer, or
- (b) where the application for review of a decision of the Attendance Allowance Board is made within 3 months of that decision being given, as a second tier adjudication.

(5) For the purposes of this regulation, any application for a review of a decision which required the leave of the Attendance Allowance Board shall itself be treated as an application for review.

(6) In determining any question in accordance with paragraph (4) any correspondence issuing from the Attendance Allowance Board indicating the matters which, in the Board's opinion arise on a question before it, together with the submissions (if any) made by or on behalf of the claimant in response to that correspondence, may be taken into account by the adjudication officer as evidence relating to the question to be determined.

(7) Where before 6th April 1992, the Board has issued a certificate in accordance with section 35(2) of the 1975 Act, but the adjudication officer has not determined the claim or as the case may be the application for review to which the certificate relates, then in determining that claim or application the adjudication officer shall treat the certificate—

- (a) if it specifies both the conditions mentioned in section 35(1)(a) and (b) of the 1975 Act, as evidence that the person satisfies or is likely to satisfy both the conditions mentioned in subsections (1)(a) and (1)(b) of section 35 throughout the period mentioned in the certificate; and
- (b) if it specifies one or other of them, but not both, as evidence of his falling within that subsection by virtue of having satisfied or being likely to satisfy one or other of those conditions throughout the period mentioned in the certificate.

(8) Where the Board has before 6th April 1992 determined a question referred to them in accordance with section 105(3) of the 1975 Act and the decision is such that no award of attendance allowance could have been made on the basis of it, then in determining on or after 6th April 1992 any claim for, or application for review of a decision relating to attendance allowance to which the Board's decision relates, the adjudication officer shall treat the decision of the Board, and any reasons given by the Board in support of their decision, as evidence that the person does not satisfy those requirements to which the decision relates.

[<sup>F3</sup>(9) For the purposes of the provisions of Part III of the 1975 Act in so far as they relate to the review of decisions of adjudication officers, any decision made by the former Attendance Allowance Board under section 105(3) or 106(1) of the 1975 Act together (if applicable) with any certificate issued or altered in consequence of that decision shall, after 5th April 1992, be treated as a decision of an adjudication officer and as such shall be subject to review on the same grounds and in the same circumstances as decisions of an adjudication officer.]

#### Textual Amendments

**F3** Reg. 22(9) substituted (16.3.92) by S.I. 1992/728, reg. 1(1), 3

### Appeals to Commissioners from decisions of the Attendance Allowance Board

**23.**—[<sup>F4</sup>(1) Subject to paragraph (1A), after the 5th April 1992 an appeal lies to a Commissioner, with his leave or that of another Commissioner, against a determination by the Attendance Allowance Board of any question of law arising from either—

- (a) a review made by the Attendance Allowance Board under section 106(1) of the 1975 Act, or
- (b) a refusal by the Attendance Allowance Board to review a determination made by them under section 105(3) or 106(1) of the 1975 Act,

at the instance of the claimant in question or the Secretary of State.

(1A) Those provisions of the Social Security Commissioners Procedure Regulations 1987 which on 5th April 1992 applied to applications or appeals made under section 106(2) of the 1975 Act shall apply in like manner to applications and appeals made under paragraph (1).]

(2) [F5 On or after 16th March 1992] where the Commissioner holds that the Board's decision was erroneous in point of law, he shall set it aside and—

- (a) he shall have the power—
  - (i) to give the decision which he considers the Board should have given, if he can do so without making fresh or further findings of fact; or
  - (ii) if he considers it expedient, to make such findings and to give such decision as he considers appropriate in the light of them; or
- (b) in any other case he shall refer the case for second tier adjudication with directions for its determination.

(3) Where in accordance with paragraph (2)(a) the Commissioner gives the decision himself, he shall refer that decision to the adjudication officer with directions to determine the claim or application for review from which the appeal to the Commissioner arose.

#### Textual Amendments

- F4** Reg. (1) and reg. (1A) substituted (16.3.92) for reg. (1) by S.I. 1992/728, reg. 1(1), 4(a)
- F5** Words in reg. 23(2) inserted (16.3.92) by S.I. 1992.728, reg. 1(1), 4(b)

#### Persons claiming mobility allowance

24.—(1) In this regulation, the expression “medical question” has the meaning it bore in regulation 53 of the Social Security (Adjudication) Regulations 1986 <sup>M3</sup> on 3rd February 1992.

(2) Any claim for mobility allowance made after 15th March 1992, or any application made after 9th February 1992 for a review of a decision relating to the medical question or otherwise to mobility allowance, shall be subject to adjudication in accordance with the provisions of the 1975 Act relating to disability living allowance, and the modification, additions and exclusions set out in Section B of Part IV of the Social Security (Adjudication) Regulations 1986 shall be disregarded.

(3) Subject to the following provisions of this regulation, where a claim for, or an application for a review of a decision relating to, mobility allowance, other than a claim or application mentioned in paragraph (2), has not been determined as at 6th April 1992, then that claim or application shall as from that date be subject to adjudication in accordance with provisions in the 1975 Act relating to disability living allowance.

(4) Where a medical question arose on a claim or question to which paragraph (3) refers, then, in determining that claim or question the adjudication officer—

- (a) shall have regard to any report received from the medical practitioner to whom the medical question has been referred;
- (b) if a report of a medical practitioner to whom the medical question has been referred has not been received by the adjudication officer may—

- (i) subject to sub-paragraph (ii) below, await the report and have regard to it before determining the claim or application, or
    - (ii) where the report has not been received by the adjudication officer within 6 weeks of the question being referred to the medical practitioner, determine the claim without waiting for the report;
  - (c) where the medical question has been determined by the medical board before 6th April 1992, shall have regard to any report made by the board on that question;
  - (d) where the medical question has been referred to a medical board otherwise than on an appeal by the person claiming the allowance, but the board has not determined that question by 6th April 1992, shall consider the question as though—
    - (i) the reference had not been made, and
    - (ii) the provisions in section 115C of the 1975 Act (references of claims to medical practitioners<sup>F6</sup>...) relating to disability living allowance applied also to the medical question;
  - (e) where the medical question was referred to the medical board following an appeal by the person claiming the allowance but the board has not determined that question by 6th April 1992, shall consider the question as though—
    - (i) it was an application for a review under section 100A(1) of the 1975 Act (reviews of decisions by adjudication officers) of the decision appealed against, and
    - (ii) the provisions in section 115C of the 1975 Act relating to disability living allowance applied also to the medical question;
  - (f) where the medical question has been referred to a medical appeal tribunal, shall be bound by any decision given by the Tribunal on the matters to which it relates.
- (5) No reference on a medical question to a medical board shall be made by an adjudication officer after 9th February 1992.
- (6) Any medical question which would but for paragraph (5) have been referred to a medical board shall be subject to adjudication in accordance with the provisions of the 1975 Act relating to disability living allowance, and for this purpose the medical question shall be determined as though it was a second tier adjudication.
- (7) Any appeal on a medical question from a decision of a medical board which is made on or after 10th February 1992 shall be subject to adjudication in accordance with the provisions of the 1975 Act relating to disability living allowance and the provisions of Section B of Part IV of the Social Security (Adjudication) Regulations 1986<sup>M4</sup> shall be disregarded.
- (8) Section 100D(1) of the 1975 Act shall apply to the appeal mentioned in paragraph (7) as if the decision appealed against was the decision of an adjudication officer given on review under section 100A(1) of the 1975 Act and the appeal shall be to a disability appeal tribunal.
- (9) Any medical question referred to a medical appeal tribunal which has not been determined by 6th April 1992 shall—
- (a) where the person to whom the question relates so consents, continue to be heard by the medical appeal tribunal, or
  - (b) where he does not consent, be subject to adjudication in accordance with the provisions of the 1975 Act relating to disability living allowance, and for this purpose, the medical question shall be determined by a disability appeal tribunal and not by a medical appeal tribunal.
- (10) Where a disability appeal tribunal is determining, pursuant to paragraph (9), a medical question which was considered by a medical appeal tribunal but adjourned with a request for further information or a report, then the disability appeal tribunal shall await the submission of that

information or report but not for more than 3 months from the date the information or report was requested, and shall if it is available take it into account in determining the question before them.

(11) Any decision of an adjudication officer, a medical board or a medical appeal tribunal on a medical question may be reviewed at any time by an adjudication officer if—

- (a) he is satisfied, in the case of a decision of a medical appeal tribunal by fresh evidence, that the decision was given in ignorance of, or was based upon a mistake as to, a material fact; or
- (b) there has been a relevant change of circumstances since the decision was given.

(12) Subsections (3), (4) and (6) to (9) of section 104A of the 1975 Act shall apply to reviews under paragraph (11) as they apply to reviews under that section.

(13) Section 112 of the 1975 Act (appeal on a question of law to the Commissioner) shall have effect in relation to a decision of a medical appeal tribunal on a medical question subject to the modifications that in subsection (6) for the words “a medical appeal tribunal” there were substituted the words “an adjudication officer” and as though subsection (7) were omitted<sup>M5</sup>.

(14) Where the Commissioner returns a question to an adjudication officer pursuant to paragraph (11), section 100D(1) of the 1975 Act (appeals following reviews) shall apply to the decision of the adjudication officer on that question as if it were a decision given by him on a review under section 100A(1) of that Act (review of a decision on any ground).

#### Textual Amendments

- F6** Words in reg. 24(4)(d)(ii) omitted (7.2.2013) by virtue of [The Public Bodies \(Abolition of the Disability Living Allowance Advisory Board\) Order 2013 \(S.I. 2013/252\)](#), art. 1(2), **Sch. Pt. 2**

#### Marginal Citations

- M3** [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](#).
- M4** [S.I. 1986/2218](#).
- M5** Subsections (6) and (7) were added by the [Social Security Act 1989 \(c.24\)](#), **Schedule 3**, paragraph 9(2).

#### Reference to an adjudication officer

**25.—(1)** This regulation applies where, on or after 3rd February 1992 a disability appeal tribunal are determining an appeal which relates to a claim for attendance allowance or a disability appeal tribunal or a medical appeal tribunal are determining an appeal which relates to a claim for mobility allowance.

(2) Where an appeal tribunal are unable to make an award of the benefit claimed, but, solely on the evidence before them they are satisfied that the claimant may qualify for—

- (a) where the claim relates to attendance allowance, the lowest of the three rates of care component prescribed under section 37ZB(3) of the 1975 Act; or
- (b) where the claim relates to mobility allowance—
  - (i) the lower of the two rates of mobility component prescribed under section 37ZC(6) of the 1975 Act, or
  - (ii) the higher rate of the two rates of mobility component because he may fall within section 37ZC(1)(c) of the 1975 Act (entitlement to mobility component for the severely mentally impaired),



the appeal tribunal may refer to an adjudication officer the question of his entitlement to disability living allowance.

(3) Where an adjudication officer has a question referred to him in accordance with paragraph (2), he shall treat—

- (a) the claim for attendance allowance as being also a claim for disability living allowance relating solely to the care component, or
- (b) the claim for mobility allowance as being also a claim for disability living allowance relating solely to the mobility component,

made on the 3rd February 1992 and proceed to determine that claim in accordance with section 99 of the 1975 Act.

(4) An award made in accordance with paragraph (3) may be for a period commencing on 6th April 1992 or on such later date as the adjudication officer may, in the circumstances of the particular case, determine.

### **Payments of disability living allowance**

**26.**—(1) This regulation applies to the payment of awards of disability living allowance where the award arises in accordance with Parts II or III of these Regulations.

(2) Subject to paragraphs (3), (4) and (5), where a person has an award of attendance allowance, mobility allowance or disability living allowance which—

- (a) is payable by direct credit transfer in accordance with regulation 21 of the Social Security (Claims and Payments) Regulations 1987<sup>M6</sup>, and
- (b) is superseded by an award treated as made under Parts II or III of these Regulations.

the award mentioned in sub-paragraph (b) above shall continue to be paid by direct credit transfer into the same bank or other account as the award it superseded; and for this purpose, any application made or treated as made and any consent given or treated as given in relation to the terminated award shall be treated as made or given in relation to the award mentioned in sub-paragraph (b) above.

(3) Where a person—

- (a) has two awards of disability living allowance, and
- (b) those awards are paid separately but into the same account by direct credit transfer in accordance with regulation 21 of the Social Security (Claims and Payments) Regulations 1987,

then those payments may at any time before [F728th December 1993] be combined into one payment, equal to the aggregate of the two payments, payable by direct credit transfer into that account.

(4) Where a person has two awards of disability living allowance paid by direct credit transfer in accordance with regulation 21 of the Social Security (Claims and Payments) Regulations 1987 into different accounts, those payments may, with the consent of the Secretary of State, be made into such one account as the person to whom the payments are made may specify in a notice in writing to the Secretary of State.

(5) For the purposes of paragraph (3) any application made or treated as made and any consent given or treated as given in relation to a terminated or cancelled award shall be treated as made or given in relation to the award treated as having been made by virtue of these Regulations.

(6) Where a person has an award of disability living allowance which is payable by direct credit transfer in accordance with regulation 21 of the Social Security (Claims and Payments) Regulations 1987, any further award of disability living allowance made to that person shall be paid by direct credit transfer into the same bank or other account as the award first mentioned; and any application

made or treated as made and any consent given or treated as given in relation to the first mentioned award shall be treated as made or given also in relation to the further award.

(7) Subject to the following provisions of this regulation, where attendance allowance was payable to a person otherwise than by direct credit transfer, any disability living allowance arising in accordance with Part II of these Regulations shall be payable on the day of the week the attendance allowance was or would have been payable.

(8) Subject to paragraph (9), where mobility allowance was payable to a person otherwise than by direct credit transfer, any disability living allowance arising in accordance with regulation 8 shall be payable on a Wednesday.

(9) Where both attendance allowance and mobility allowance were payable to a person otherwise than by direct credit transfer, any disability living allowance payable in accordance with an award treated as made by virtue of these Regulations shall be payable—

- (a) from such date before [<sup>F8</sup>28th December 1993] as the Secretary of State may in any particular case determine—
  - (i) except in a case to which head (ii) below applies, on a Wednesday; or
  - (ii) where in any particular case payment of attendance allowance was combined with the payment of another benefit and that benefit was payable on a day of the week other than Wednesday, the care component shall be payable on that day and the mobility component shall be payable on a Wednesday;
- (b) until that day, care component shall be payable in the manner and at the time when attendance allowance was payable and mobility component shall likewise be payable in the manner and at the time when mobility allowance was payable.

(10) Where attendance allowance was payable to a person otherwise than by direct credit transfer and an award of mobility component is made to that person, any award of disability living allowance treated as having been made by virtue of these Regulations shall be payable, from such date before [<sup>F9</sup>28th December 1993] as the Secretary of State may in any particular case determine—

- (a) except in a case to which sub-paragraph (b) applies, on a Wednesday; or
- (b) where in any particular case the payment of attendance allowance was combined with the payment of another benefit and that benefit was payable on a day of the week other than Wednesday, the care component shall be payable on that day and the mobility component shall be payable on a Wednesday.

(11) Where in accordance with this regulation payment of a person's award of disability living allowance is changed to a Wednesday, and because of this change in pay day the interval between the first Wednesday pay day and the last previous pay day (referred to in this paragraph as "the relevant period") is greater than it would have been but for that change, then the first Wednesday payment of disability living allowance shall include by way of adjustment an additional payment which is equal to the daily rate for the benefit or part of a benefit which is subject to that change, multiplied by a number determined by deducting from the number of days in the relevant period, the number of days which would have been in that period but for the change in pay days.

[<sup>F10</sup>(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 [<sup>F11</sup> or cancelled ] 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).]

- (13) In cases to which this paragraph refers, disability living allowance shall be paid—
- <sup>F12</sup>(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;
- (b) until that date, on such days, at such intervals and in such manner as the former awards of attendance allowance and mobility allowance were paid.

<sup>F13</sup>(13A) Where <sup>F14</sup>the person to whom the allowance is payable (whether for himself or another)] 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.]

- (14) Where a person who has not attained the age of 65 on 6th April 1992—
- (a) has claimed attendance allowance or disability living allowance and pursuant to that claim an award of attendance allowance was made after 2nd February 1992, or
- (b) has applied for a review of a decision of the Attendance Allowance Board or the adjudication officer not to award attendance allowance and pursuant to that application an award of attendance allowance is made after 2nd February 1992,

and that award is for a period commencing before 6th April 1992, both the attendance allowance and any disability living allowance granted in place of the award of attendance allowance shall be payable at four weekly intervals on a Wednesday, unless in any particular case the Secretary of State arranges otherwise.

(15) For the purpose of paragraph (11), the “daily rate” is an amount equal to one-seventh of the weekly rate, rounded up to the next 1p.

#### Textual Amendments

- F7** Words in reg. 26(3) substituted (1.4.1993) by [The Social Security \(Introduction of Disability Living Allowance\) \(Amendment\) Regulations 1993 \(S.I. 1993/408\)](#), regs. 1, **2(3)(a)**
- F8** Words in reg. 26(9) substituted (1.4.1993) by [The Social Security \(Introduction of Disability Living Allowance\) \(Amendment\) Regulations 1993 \(S.I. 1993/408\)](#), regs. 1, **2(3)(a)**
- F9** Words in reg. 26(10) substituted (1.4.1993) by [The Social Security \(Introduction of Disability Living Allowance\) \(Amendment\) Regulations 1993 \(S.I. 1993/408\)](#), regs. 1, **2(3)(a)**
- F10** Reg. 26(12) substituted (6.8.1993) by [The Social Security \(Introduction of Disability Living Allowance\) \(Amendment\) \(No.2\) Regulations 1993 \(S.I. 1993/1739\)](#), regs. 1(1), **2(4)(a)**
- F11** Words in reg. 26(12)(a)(ii) inserted (25.11.1993) by [The Social Security \(Introduction of Disability Living Allowance\) \(Amendment\) \(No. 3\) Regulations 1993 \(S.I. 1993/2704\)](#), regs. 1, **2(4)(a)**
- F12** Reg. 26(13)(a) substituted (6.8.1993) by [The Social Security \(Introduction of Disability Living Allowance\) \(Amendment\) \(No.2\) Regulations 1993 \(S.I. 1993/1739\)](#), regs. 1(1), **2(4)(b)**
- F13** Reg. 26(13A) inserted (6.8.1993) by [The Social Security \(Introduction of Disability Living Allowance\) \(Amendment\) \(No.2\) Regulations 1993 \(S.I. 1993/1739\)](#), regs. 1(1), **2(4)(c)**
- F14** Words in reg. 26(13A) substituted (25.11.1993) by [The Social Security \(Introduction of Disability Living Allowance\) \(Amendment\) \(No. 3\) Regulations 1993 \(S.I. 1993/2704\)](#), regs. 1, **2(4)(b)**

#### Marginal Citations

- M6** [S.I. 1987/1968](#).

**Persons unable to act**

27.—(1) <sup>F15</sup>Except as provided in paragraph (3)] a person who before regulation 3(2) came into force was entitled to attendance allowance in respect of a child shall, after 5th April 1992 be regarded for the purposes of regulation 43 of the Claims and Payments Regulations as the person appointed on behalf of that child.

(2) An appointment having effect in accordance with paragraph (1) may be terminated when the child attains the age of 16 or ceases to be entitled to disability living allowance, or in accordance with regulation 43 of the Claims and Payments Regulations.

(3) Where on 5th April 1992 a person holds an appointment in respect of a child under regulation 43 of the Claims and Payments Regulations (mobility allowance) and that person is different from the person mentioned in paragraph (1) as being entitled to an attendance allowance in respect of that same child, then that appointment shall terminate on 6th April 1992 and the Secretary of State shall make a new appointment under regulation 43 of the Claims and Payments Regulations to take effect on that day.

<sup>F16</sup>(3A) In this regulation “the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987 .]

<sup>F17</sup>(4) .....

<sup>F18</sup>(5) .....

**Textual Amendments**

- F15** Words in reg. 27 substituted (16.3.92) by S.I. 1992/728, **reg. 1, 5(a)**
- F16** Reg. 27(3A) added (25.11.1993) by The Social Security (Introduction of Disability Living Allowance) (Amendment) (No. 3) Regulations 1993 (S.I. 1993/2704), regs. 1, **2(5)**
- F17** Reg. 27(4) omitted (16.3.92) by S.I. 1992/728, **reg. 1, 5(b)**
- F18** Reg. 27(5) omitted (6.8.1993) by virtue of The Social Security (Introduction of Disability Living Allowance) (Amendment) (No.2) Regulations 1993 (S.I. 1993/1739), regs. 1(1), **2(5)**

**Changes to legislation:**

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