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## STATUTORY INSTRUMENTS

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# 1991 No. 2891

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

### PART V

#### CLAIMS, PAYMENTS AND ADJUDICATION

##### **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

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**Changes to legislation:** *The Social Security (Introduction of Disability Living Allowance) Regulations 1991, Section 22 is up to date with all changes known to be in force on or before 28 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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(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>F1</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.]

<p><b>F1</b> Reg. 22(9) substituted (16.3.92) by S.I. 1992/728, reg. 1(1), 3</p>
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The Social Security (Introduction of Disability Living Allowance) Regulations 1991, Section 22 is up to date with all changes known to be in force on or before 28 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- reg.22(9) substituted by [S.I. 1992/728 reg.3](#)