

STATUTORY INSTRUMENTS

1991 No. 2891

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

PART V

CLAIMS, PAYMENTS AND ADJUDICATION

Appeals to Commissioners from decisions of the Attendance Allowance Board

23.—^{F1}(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) ^{F2}[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

- F1** Reg. (1) and reg. (1A) substituted (16.3.92) for reg. (1) by S.I. 1992/728, reg. 1(1), 4(a)
- F2** Words in reg. 23(2) inserted (16.3.92) by S.I. 1992.728, reg. 1(1), 4(b)

Changes to legislation:

The Social Security (Introduction of Disability Living Allowance) Regulations 1991, Section 23 is up to date with all changes known to be in force on or before 27 April 2024. 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.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- reg.23(1) replaced by [S.I. 1992/728 reg.4\(a\)](#)
- reg.23(2) amended by [S.I. 1992/728 reg.4\(b\)](#)