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STATUTORY INSTRUMENTS

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**1992 No. 2869**

**SOCIAL SECURITY**

**The Social Security (Disability Living Allowance and Attendance Allowance) (Amendment) Regulations 1992**

*Made* - - - - *17th November 1992*  
*Laid before Parliament* *24th November 1992*  
*Coming into force* - - *15th December 1992*

The Secretary of State for Social Security, in exercise of the powers conferred by sections 67(2), 72(8) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(1), sections 73(1)(b) and 189(1) and (4) of the Social Security Administration Act 1992(2) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that the proposals to make these Regulations need not be referred to it(3), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Disability Living Allowance and Attendance Allowance) (Amendment) Regulations 1992 and shall come into force on 15th December 1992.

(2) In these Regulations—

“the Attendance Allowance Regulations” means the Social Security (Attendance Allowance) Regulations 1991(4);

“the Disability Living Allowance Regulations” means the Social Security (Disability Living Allowance) Regulations 1991(5).

**Amendment of regulation 6 of the Attendance Allowance Regulations**

2.—(1) Regulation 6 of the Attendance Allowance Regulations(6) shall be amended in accordance with the following provisions of this regulation.

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(1) 1992 c. 4.  
(2) 1992 c. 5.  
(3) See section 173(1)(b) of the Social Security Administration Act 1992.  
(4) S.I. 1991/2740; the relevant amending instrument is S.I. 1992/703.  
(5) S.I. 1991/2890; the relevant amending instrument is S.I. 1992/633.  
(6) Regulation 6 was amended by S.I. 1992/703, regulation 3.

(2) For paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to regulation 8, it shall be a condition for the receipt of an attendance allowance 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 hospital or similar institution under the NHS Act of 1977, the NHS Act of 1978 or the NHS Act of 1990; or
- (b) in a hospital or similar institution maintained or administered by the Defence Council.”.

(3) In paragraph (2), for the words “paragraph (1)” there shall be substituted the words “paragraph (1)(a)”.

(4) Paragraph (3) shall be omitted.

#### **Amendment of regulation 7 of the Attendance Allowance Regulations**

**3.—**(1) Regulation 7 of the Attendance Allowance Regulations(7) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)—

- (a) for the words “paragraphs (2), (3) and (4)” there shall be substituted the words “paragraphs (2) and (3)”; and
- (b) in sub-paragraphs (b) and (c) the words “or to education or training” shall be omitted.

(3) In paragraph (2) the words “or to education or training” shall be omitted.

#### **Amendment of regulation 8 of the Disability Living Allowance Regulations**

**4.—**(1) Regulation 8 of the Disability Living Allowance Regulations(8) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to 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 hospital or similar institution under the NHS Act of 1977, the NHS Act of 1978 or the NHS Act of 1990; or
- (b) in a hospital or other similar institution maintained or administered by the Defence Council.”.

(3) In paragraph (2), for the words “paragraph (1)” there shall be substituted the words “paragraph (1)(a)”.

(4) Paragraph (3) shall be omitted.

#### **Amendment of regulation 9 of the Disability Living Allowance Regulations**

**5.—**(1) Regulation 9 of the Disability Living Allowance Regulations(9) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1), for the words “paragraphs (2) to (5)” there shall be substituted the words “paragraphs (1A) to (4)”.

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(7) Regulation 7 was amended by S.I. 1992/703, regulation 4.

(8) Regulation 8 was amended by S.I. 1992/633, regulation 2(2).

(9) Regulation 9 was amended by S.I. 1992/633, regulation 2(3).

(3) After paragraph (1) there shall be inserted the following paragraph—

“(1A) Paragraph (1)(b) and (c) shall not apply in circumstances where the cost of the accommodation is or may be borne wholly or partly out of public or local funds by virtue of—

- (a) section 100 of the Education Act 1944(**10**) (grants in aid of educational services);
- (b) section 1, 2 or 3 of the Education Act 1962(**11**) (which relate respectively to awards by local education authorities in respect of degree courses and further education and awards by the Secretary of State to persons undergoing teacher training or postgraduate courses);
- (c) sections 131(6) or 132(7) of the Education Reform Act 1988(**12**) (which respectively relate to the payment of grants to institutions by the Universities Funding Council and the Polytechnics and Colleges Funding Council); or
- (d) section 1 of the Education (Student Loans) Act 1990(**13**) (student loans).”.

Signed by authority of the Secretary of State for Social Security.

17th November 1992

*Nicholas Scott*  
Minister of State,  
Department of Social Security

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(10) 7 & 8 Geo. 6 c.31. Section 100 has been amended: relevant amendments were made by S.I. 1964/490, article 3(2)(a) and the Education Reform Act 1988 (c. 40), section 213(3).

(11) 1962 c. 12. There are amendments to sections 1 and 2 which are not relevant for the purposes of these Regulations. Section 3 has been amended: relevant amendments were made by S.I. 1964/490, article 3(2)(a) and the Education Act 1975 (c. 2), section 2.

(12) 1988 c. 40.

(13) 1990 c. 6.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note does not form part of the Regulations)*

These Regulations further amend the Social Security (Attendance Allowance) Regulations 1991 (“the Attendance Allowance Regulations”) and the Social Security (Disability Living Allowance) Regulations 1991 (“the Disability Living Allowance Regulations”).

*Regulations 2 and 4* respectively amend regulation 6 of the Attendance Allowance Regulations and regulation 8 of the Disability Living Allowance Regulations in order to reflect the ways in which treatment can now be provided under the National Health Service.

*Regulation 3* amends regulation 7 of the Attendance Allowance Regulations so as to remove references to enactments relating to education and training from that regulation. The effect of the amendment is to remove the disqualification for receiving Attendance Allowance in the cases of those whose accommodation is provided at public expense under enactments relating to education or training.

*Regulation 5* amends regulation 9 of the Disability Living Allowance Regulations so as to permit a person who is in receipt of a grant or loan from public or local funds whilst undergoing certain types of further or higher education to receive the care component of a disability living allowance if he otherwise meets the criteria for the allowance.