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STATUTORY INSTRUMENTS

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**1992 No. 633**

**SOCIAL SECURITY**

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

*Made* - - - - *10th March 1992*  
*Coming into force* - - *6th April 1992*

Whereas a draft of this instrument was laid before Parliament in accordance with section 12(1)(a) of the Disability Living Allowance and Disability Working Allowance Act 1991(1) and approved by resolution of each House of Parliament;

Now therefore, the Secretary of State for Social Security, in exercise of the powers conferred by sections 37ZB(8), 85(1)(b) and 166(2) of, and Schedule 20 to, the Social Security Act 1975(2) and of all other powers enabling him in that behalf, by this instrument which contains only regulations made consequential upon section 1 of the Disability Living Allowance and Disability Working Allowance Act 1991, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Disability Living Allowance) Amendment Regulations 1992 and shall come into force on 6th April 1992.

**Amendment of the Social Security (Disability Living Allowance) Regulations 1991**

2.—(1) The Social Security (Disability Living Allowance) Regulations 1991(3) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 8 (hospitalisation), in paragraph (3)—

- (a) in the definition of “National Health Service trust” for the words “to it by the NHS Act of 1990” there shall be substituted the words “by section 5 of the NHS Act of 1990 and section 12A of the NHS Act of 1978”; and
- (b) at the end of the definition of “recognised fund-holding practice” there shall be added the words “and section 87A of the NHS Act of 1978”.

(3) In regulation 9 (persons in certain accommodation other than hospitals)—

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(1) 1991 c. 21.  
(2) 1975 c. 14. Section 37ZB was inserted in the Social Security Act 1975 by section 1 of the Disability Living Allowance and Disability Working Allowance Act 1991. Schedule 20 is cited for the meaning it ascribes to the word “regulations”.  
(3) S.I.1991/2890.

- (a) in paragraph (1), for the words from “paragraph (2)” to “paragraphs (3) to (5)” there shall be substituted the words “paragraphs (2) to (5)”;
  - (b) for paragraph (2) there shall be substituted the following paragraph—
    - “(2) Subject to paragraph (2A), paragraph (1) shall not apply in the case of a child who—
      - (a) has not attained the age of 16 and is being looked after by a local authority; or
      - (b) has not attained the age of 18 and to whom—
        - (i) section 17(10)(b) of the Children Act 1989<sup>(4)</sup> (impairment of health and development) applies because his health is likely to be significantly impaired, or further impaired, without the provision of services for him, or
        - (ii) section 17(10)(c) of the Act of 1989 (disability) applies; or
      - (c) who is accommodated outside the United Kingdom and the cost of the accommodation is or may be borne wholly or partly by a local authority pursuant to their powers under section 3A of the Education Act 1981<sup>(5)</sup>.”;
  - (c) after paragraph (2) there shall be inserted the following paragraph—
    - “(2A) Sub-paragraphs (a) and (b) of paragraph (2) shall only apply during any period during which the local authority looking after the child place him in a private dwelling with a family, or a relative of his, or some other suitable person.”; and
  - (d) at the beginning of paragraph (3) there shall be inserted the words “paragraph (1)(b), in so far as it relates to enactments relating to persons under disability or to education or training not referred to in sub-paragraph (a), and”.
- (4) In regulation 10 (exemption from regulations 8 and 9), for paragraph (4)(b) there shall be substituted the following sub-paragraph—
- “(b) would, but for this regulation, be prevented from receiving the care component of a disability living allowance by reason of regulation 9(1).”.

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

10th March 1992

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

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(4) 1989 c. 41.

(5) 1981 c. 60; section 3A was inserted by the Children Act 1989, Schedule 12, paragraph 26.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Disability Living Allowance) Regulations 1991 by—

(1) including a reference to the National Health Service (Scotland) Act 1978 in the definitions in regulation 8(3) of “National Health Service trust” and “recognised fund-holding practice” (regulation 2(2));

(2) substituting a new paragraph (2) and adding a new paragraph (2A) to regulation 9 so as to limit the exception provided in paragraph (2) from the requirement that disability living allowance should not be paid to people in certain accommodation (regulation 2(3)(b) and (c)); and

(3) extending regulation 9(3) and regulation 10(4) which provide exceptions to the requirement that disability living allowance should not be paid to people in certain accommodation (regulation 2(3)(d) and (4)).