
STATUTORY INSTRUMENTS

1994 No. 1779

The Social Security (Attendance Allowance and Disability Living Allowance) (Amendment) Regulations 1994

Amendment of the Disability Living Allowance Regulations

3.—(1) The Disability Living Allowance Regulations shall be amended in accordance with the following provisions of this regulation and in this regulation a reference to a numbered regulation is a reference to the regulation in the Disability Living Allowance Regulations which bears that number.

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

- (a) in paragraph (1)(1) for the words “regulation 10” there shall be substituted the words “regulations 9A and 10”;
- (b) in paragraph (4)(c)(2) for the words from “, and has a preserved right” to “Regulations 1992” there shall be substituted the words “, and is a person to whom regulation 9A applies”; and
- (c) in paragraph (5A)(3) for the words from “who does not have a preserved right” to “Regulations 1992” there shall be substituted the words “to whom regulation 9A does not apply”.

(3) After regulation 9 there shall be inserted the following regulations—

“Persons to whom regulations 9 and 10 apply with modifications

9A.—(1) This regulation applies where a person satisfies paragraph 1 or paragraph 2 of Schedule 3 to these Regulations.

(2) Where this regulation applies—

- (a) regulation 9 shall have effect as if after paragraph (2A)(4) there were inserted the following paragraph—

“(2B) Paragraph (1)(b), in so far as it relates to enactments relating to persons under a disability or to education or training not referred to in sub-paragraph (a), and paragraph (1)(c) shall not apply in the case of a person who is terminally ill where the Secretary of State has been informed of that fact—

- (a) on a claim for a disability living allowance which is attributable to the care component;
- (b) on an application for a review of an award of disability living allowance which is attributable to the care component; or
- (c) in writing in connection with an award of, or a claim for, or an application for a review of an award of, the care component of a disability living allowance.”; and

(1) Paragraph (1) has been amended by regulation 5(2) of S.I. [1992/2869](#) and regulation 3(2)(a) of S.I. [1993/518](#).
(2) Paragraph (4) was amended by regulation 3(2)(b) of S.I. [1993/518](#).
(3) Paragraph (5A) was inserted by regulation 3(2)(d) of S.I. [1993/518](#).
(4) Paragraph (2A) was inserted by regulation 2(3)(c) of S.I. [1992/633](#).

- (b) regulation 10(5) (exemption from regulations 8 and 9) shall have effect as if—
- (i) in paragraph (1) for the words “subject to the following provisions of this regulation” there were substituted the words “subject to paragraphs (2) and (3)”; and
 - (ii) paragraphs (6) to (9) were omitted.”.
- (4) After regulation 10 there shall be inserted the following regulations—

“Adjustment of allowance where medical expenses are paid from public funds under war pensions instruments

10A.—(1) In this regulation—

“article 25B” means article 25B of the Personal Injuries (Civilians) Scheme 1983(6) (medical expenses) and includes that article as applied by article 48B of that Scheme;

“article 26” means article 26 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(7) (medical expenses);

and in this regulation and regulation 10B “relevant accommodation” means accommodation provided as a necessary ancillary to nursing care where the medical expenses involved are wholly borne by the Secretary of State pursuant to article 25B or article 26.

(2) This regulation applies where a person is provided with relevant accommodation.

(3) Subject to regulation 10B, where this regulation applies and there are payable in respect of a person both a payment under article 25B or article 26 and a disability living allowance which is attributable to the care component, the allowance, in so far as it is so attributable, shall be adjusted by deducting from it the amount of the payment under article 25B or article 26, as the case may be, and only the balance shall be payable.

Exemption from regulation 10A

10B.—(1) Regulation 10A shall not, subject to the following provisions of this regulation, apply to a person in respect of the first 28 days of any period during which the amount of any disability living allowance attributable to the care component would be liable to be adjusted by virtue of regulation 10A(3).

(2) For the purposes of paragraph (1) two or more distinct periods separated by an interval not exceeding 28 days, or by two or more such intervals, shall be treated as a continuous period equal in duration to the aggregate of such distinct periods and ending on the last day of the later or last such period.

(3) For the purposes of this paragraph a day is a relevant day in relation to a person if it fell not earlier than 28 days before the first day on which he was provided with relevant accommodation; and either—

- (a) was a day when he was undergoing medical treatment in a hospital or similar institution in any of the circumstances mentioned in regulation 8; or
- (b) was a day when he was, or would but for regulation 10 have been, prevented from receiving a disability living allowance attributable to the care component by virtue of regulation 9(1);

(5) Regulation 10 has been amended: the relevant amending instruments are S.I. 1992/633, 3147 and 1993/518.

(6) S.I. 1983/686: article 25B was inserted by article 6 of S.I. 1984/1289 and amended by article 7 of S.I. 1993/480; article 48B was inserted by article 11 of S.I. 1984/1289.

(7) S.I. 1983/883: there are amendments which are not relevant for the purposes of this instrument.

and where there is in relation to a person a relevant day, paragraph (1) shall have effect as if for “28 days” there were substituted such lesser number of days as is produced by subtracting from 28 the number of relevant days in his case.”.

(5) In regulation 12(2) (entitlement to the mobility component in the case of the blind and deaf) after the words “loss of hearing” there shall be inserted the words “when using any artificial aid which he habitually uses or which is suitable in his case”.

(6) There shall be added to the Disability Living Allowance Regulations as Schedule 3 the Schedule which is set out as Schedule 2 to these Regulations.