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STATUTORY INSTRUMENTS

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**1997 No. 1839**

**The Social Security (Attendance Allowance  
and Disability Living Allowance)  
(Miscellaneous Amendments) Regulations 1997**

**Insertion of new regulations in the Disability Living Allowance Regulations**

3. After Regulation 5 of the Disability Living Allowance Regulations (late claim by a person previously entitled) there shall be inserted—

**“Medical examination in prescribed circumstances**

5A.—(1) The prescribed circumstances in which a person who is awarded disability living allowance shall be required to attend for, or submit himself to, a medical examination, are where the Secretary of State is undertaking an investigation under section 30(7A) of the Administration Act<sup>(1)</sup>.

(2) An examination under paragraph (1) shall be conducted by a medical practitioner who is—

- (a) approved by the Secretary of State; or
- (b) engaged by an organisation approved by the Secretary of State.

**Withholding of benefit in prescribed circumstances**

**5B. –**

(1) Subject to paragraph (2), where a person who is receiving disability living allowance is required by the Secretary of State, to attend for, or submit to, a medical examination under regulation 5A and fails to comply with that requirement on more than one occasion, that allowance may be withheld, in whole or in part, from a date, not earlier than the second occasion, as the Secretary of State shall determine.

(2) Paragraph (1) shall not apply where—

- (a) a person who is required to attend for, or submit to, a medical examination proves to the satisfaction of the Secretary of State that he has good cause for failing to comply with the requirement to attend for, or submit himself to, medical examination;
- (b) a person who is required to attend for, or submit to, a medical examination produces such evidence as is acceptable to the Secretary of State in place of a medical examination; or
- (c) the Secretary of State otherwise has available to him such evidence as is acceptable to him.

(3) For the purposes of paragraph (2)(a), the matters which are to be taken into account in determining whether a person has good cause shall include—

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<sup>(1)</sup> 1992 c. 5. Section 30(7A) was inserted by the Social Security Administration (Fraud) Act 1997 (c. 47), section 17(1).

- (a) whether he was outside Great Britain at the relevant time;
- (b) his state of health at the relevant time; and
- (c) the nature of any disability from which he suffers.

**Payment of withheld benefit**

**5C. –**

(1) Where the Secretary of State is satisfied that no question arises in connection with his investigation referred to in regulation 5A(1), payment of the amount withheld and the disability living allowance shall be made forthwith.

(2) Where a question arose in connection with an investigation referred to in regulation 5A(1) in respect of which—

- (a) the Secretary of State made an application for the review of a person’s entitlement to disability living allowance under section 30 of the Administration Act; and
- (b) an adjudication officer has made a determination;

payment of the disability living allowance shall be made in accordance with the adjudication officer’s determination, on review, of the person’s entitlement.

(3) Where paragraph (1) or (2) does not apply and disability living allowance is withheld under regulation 5B for a period of more than 3 months, the Secretary of State shall—

- (a) make, with a view to review, an application to the adjudication officer on the ground that the person failed to attend for, or submit himself to, medical examination; and
- (b) make such payments as are determined, on review, by the adjudication officer.”.