1993 No. 338

SOCIAL SECURITY

The Social Security (Introduction of Disability Living Allowance) (Amendment No. 2) Regulations (Northern Ireland) 1993

Made	*29th July 1993*
Coming into operation . .	*6th August 1993*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 5(1)(*j*) of the Social Security Administration (Northern Ireland) Act 1992(**a**) and paragraph 21(1) and (2)(*d*) and (*e*) of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992(**b**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Social Security (Introduction of Disability Living Allowance) (Amendment No. 2) Regulations (Northern Ireland) 1993 and shall come into operation on 6th August 1993.

Amendment of the Social Security (Introduction of Disability Living Allowance) Regulations

2.—(1) The Social Security (Introduction of Disability Living Allowance) Regulations (Northern Ireland) 1992(**c**) shall be amended in accordance with paragraphs (2) and (3) of this regulation.

(2) In regulation 13 (treatment of two awards of disability living allowance)—

(*a*) in paragraph (1) after "then" there shall be inserted ", subject to paragraph (1A),";

(*b*) after paragraph (1) there shall be inserted the following paragraph—

"(1A) Paragraph (1) shall not apply where the two awards referred to in that paragraph are for fixed periods ending on different days.";

(*c*) paragraph (2)(*c*) shall be omitted;

(*d*) after paragraph (2) there shall be inserted the following paragraphs—

"(2A) Where, after 26th December 1993, a person has two awards of disability living allowance for fixed periods ending on

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(**a**) 1992 c. 8
(**b**) 1992 c. 9
(**c**) S.R. 1992 No. 38; relevant amending regulations are S.R. 1993 No. 90

different days, those awards shall terminate on the day the shorter period ends if the adjudication officer has determined that an award for the component corresponding to the award which was for the shorter period should be made—

(*a*) for life; or

(*b*) for a period ending on the day on which the award for the longer period ends.

(2B) A person whose awards of disability living allowance have been terminated by virtue of paragraph (2A) shall be treated, as from the day referred to in that paragraph, as having one award of disability living allowance—

(*a*) where paragraph (2A)(*a*) applies, consisting of one component for life corresponding to the component which was for the shorter period under the terminated award and the other component for a fixed period ending on the day on which the award for that component would have ended but for its termination under paragraph (2A)(*a*), payable at a weekly rate which is the aggregate of the appropriate weekly rate for each of the components until the day on which the award for the fixed period ends, and thereafter at a weekly rate which is the appropriate weekly rate for the component awarded for life;

(*b*) where paragraph (2A)(*b*) applies, consisting of two components both of which are for fixed periods ending on the day on which the period the award for the component corresponding to the component which was for the longer period under the terminated award ends, payable at a weekly rate which is the aggregate of the appropriate weekly rate for each of the components.

(2C) Where, after 26th December 1993, a person has two awards of disability living allowance for fixed periods ending on different days, the adjudication officer shall not make an award following review or make a new award for a period ending on a date after the date on which the award for the longer period ends unless either—

(*a*) both awards are reviewed or made, as the case may be, for a period ending on the same date; or

(*b*) one award is for life.

(2D) Where, after 26th December 1993, a person who had two awards of disability living allowance for fixed periods ending on different days, is awarded two awards of disability living allowance where either—

(*a*) both awards are for fixed periods ending on the same day; or

(*b*) one award is for life and one is for a fixed period,

those awards shall terminate immediately after they are made and the person shall be treated, as from that date, as having one award of disability living allowance consisting of either both components for a

fixed period ending on the day on which the two awards of disability living allowance would have ended but for the termination of the awards under this paragraph or one component for life and one component for a fixed period ending on the day on which the two awards of disability living allowance would have ended but for the termination of the awards under this paragraph, whichever is appropriate.

(2E) Where a person is treated as having one award of disability living allowance under paragraph (2D) the award shall be payable at the weekly rate which is the aggregate of the appropriate weekly rate for each of those components until the award for the fixed period ends and, if one component has been awarded for life, thereafter at the appropriate weekly rate for the component awarded for life.''; and

(*e*) after paragraph (3) there shall be inserted the following paragraph—

''(3A) In this regulation, in relation to references to two awards for fixed periods ending on different days, a reference to the shorter period is a reference to the award which ends first and a reference to the longer period is a reference to the award that ends second notwithstanding that the shorter period may be of longer duration.''.

(3) In regulation 26 (payments of disability living allowance)—

(*a*) for paragraph (12) there shall be substituted the following paragraph—

''(12) Where a person—

(*a*) before 6th April 1992 has an award of attendance allowance and of mobility allowance and—

(i) those awards are paid in a different manner, and

(ii) both awards are terminated or cancelled in accordance with Parts II and III of these regulations; or

(*b*) has been awarded disability living allowance under regulation 11,

then the awards of disability living allowance shall be paid in accordance with paragraph (13).'';

(*b*) in paragraph (13) for sub-paragraph (*a*) there shall be substituted the following sub-paragraph—

''(*a*) from such date before 27th December 1993 as the Department may in any particular case determine, on the day, for the period and, subject to paragraph (13A), in the manner determined by the Department;''; and

(*c*) after paragraph (13) there shall be inserted the following paragraph—

''(13A) Where the person in respect of whom the award is made, or in the case of a person unable to act or in the case of a child, the person to whom the allowance is payable by virtue of regulation 33 or 42 of the Claims and Payments Regulations(**a**), has within 4 weeks of

(**a**) S.R. 1987 No. 465; relevant amending regulations are S.R. 1992 No. 7

receiving notice of the Department's determination under paragraph (13)(*a*) made an election which has been approved by the Department that he wishes the allowance to be paid in a manner other than that determined under paragraph (13)(*a*), the allowance shall be paid in the manner specified in the election from a date determined by the Department.''.

Revocation

3. Regulation 2(3)(*b*) of the Social Security (Introduction of Disability Living Allowance) (Amendment) Regulations (Northern Ireland) 1993(**a**) is hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 29th July 1993.

(L.S.) *R. McMurray*
Assistant Secretary

(a) S.R. 1993 No. 90

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security (Introduction of Disability Living Allowance) Regulations (Northern Ireland) 1992 by—

(1) amending regulation 13(1) to exclude persons who have two awards of disability living allowance for fixed periods ending on different days (''the excepted persons'');

(2) amending regulation 13(2) to remove references to the excepted persons;

(3) adding to regulation 13 new paragraphs which provide for—

(*a*) the termination of the excepted persons' awards of disability living allowance,

(*b*) treating excepted persons as having been awarded one award of disability living allowance, and

(*c*) the rate of payment of awards of disability living allowance referred to in sub-paragraph (*b*);

(4) amending regulation 26 by making further provision for the manner in which awards of disability living allowance are to be paid.

These regulations make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Social Security in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.