1995 No. 59

SOCIAL SECURITY

The Social Security (Attendance Allowance and Disability Living Allowance) (Amendment) Regulations (Northern Ireland) 1995

Made	*2nd March 1995*
Coming into operation . .	*3rd March 1995*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 67(2) and 72(8) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**a**) and section 71(1) of the Social Security Administration (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 (Attendance Allowance and Disability Living Allowance) (Amendment) Regulations (Northern Ireland) 1995 and shall come into operation on 3rd March 1995.

Amendment of the Social Security (Attendance Allowance) Regulations

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

(2) In regulation 7A(1) (persons to whom regulations 7 and 8 apply with modifications) after "Schedule 2" there shall be inserted "to these regulations".

(3) In Schedule 2 (persons to whom regulations 7 and 8 apply with modifications)—

(*a*) in paragraph 1 at the beginning there shall be inserted "Subject to paragraph 1A,"; and

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

"1A. Paragraph 1 shall cease to apply to a person who has a preserved right where he is absent from a home such as is mentioned in paragraph 1(*a*) and that absence exceeds a period of—

(**a**) 1992 c. 7
(**b**) 1992 c. 8
(**c**) S.R. 1992 No. 20; regulation 7A and Schedule 2 are inserted by S.R. 1994 No. 263

(*a*) except in a case to which sub-paragraph (*b*) applies—

(i) 4 weeks, where the person was before his absence a temporary resident in the home, or

(ii) 13 weeks, where the person was before his absence a permanent resident in the home; or

(*b*) 52 weeks, where throughout the period of his absence he was receiving free in-patient treatment within the meaning of regulation 2(2) of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(**a**).''.

Amendment of the Social Security (Disability Living Allowance) Regulations

3. In Schedule 2A to the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992(**b**) (persons to whom regulations 9 and 10 apply with modifications)—

(*a*) in paragraph 1 at the beginning there shall be inserted ''Subject to paragraph 1A,''; and

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

''1A. Paragraph 1 shall cease to apply to a person who has a preserved right where he is absent from a home such as is mentioned in paragraph 1(*a*) and that absence exceeds a period of—

(*a*) except in a case to which sub-paragraph (*b*) applies—

(i) 4 weeks, where the person was before his absence a temporary resident in the home, or

(ii) 13 weeks, where the person was before his absence a permanent resident in the home; or

(*b*) 52 weeks, where throughout the period of his absence he was receiving free in-patient treatment within the meaning of regulation 2(2) of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975.''.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 2nd March 1995.

(L.S.) *W. G. Purdy*
Assistant Secretary

(**a**) S.R. 1975 No. 109; relevant amending regulations are S.R. 1992 No. 453
(**b**) S.R. 1992 No. 32; Schedule 2A is inserted by S.R. 1994 No. 263

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations which are being issued free of charge correct omissions in the Social Security (Attendance Allowance and Disability Living Allowance) (Amendment) Regulations (Northern Ireland) 1994. They further amend the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1992 and the Social Security (Disability Living Allowance) Regulations (Northern Ireland) 1992.

The regulations provide that a person's preserved rights will cease to apply in circumstances where he exceeds certain periods of absence from a registered home (regulations 2(3) and 3). They also contain a minor drafting amendment (regulation 2(2)).

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.