1979 No. 458

SOCIAL SECURITY

The Social Security (Attendance Allowance) (Amendment No. 2) Regulations (Northern Ireland) 1979

Made . . . . . 19*th December* 1979
Coming into operation . . . 14*th January* 1980

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 35(1) and (6), and 106 of the Social Security (Northern Ireland) Act 1975(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Attendance Allowance) (Amendment No. 2) Regulations (Northern Ireland) 1979 and shall come into operation on 14th January 1980.

(2) In these regulations the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975(**b**) are referred to as "the principal regulations".

Amendment of regulation 7 of the principal regulations

2.—(1) Regulation 7 of the principal regulations (children in hospital and certain other accommodation) shall be amended in accordance with the following provisions of this regulation.

(2)(*a*) In paragraph (1)(*b*) the words "and is not living with his mother or father" shall be deleted; and

(*b*) at the end of the regulation there shall be added the following paragraph—

"(5) For the purposes of paragraph (1)(*b*), a child who is under the care of a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(**c**) shall not be treated as living in accommodation described in that paragraph while he is allowed to be under the charge and control of, and is living with, his mother or his father.".

Amendment of regulation 9 of the principal regulations

3. Regulation 9 of the principal regulations (reviews of determinations made by the Board) shall be amended by the substitution, for paragraph (2) of that regulation (notification of determination on application for review), of the following—

"(2) Where the Board, having where appropriate given leave under regulation 8(2), have reviewed a determination or have refused to review a determination, the claimant and the Department shall be notified in writing of the determination on the review or of that refusal, as the case may be, and, where review is refused or the determination on review is not more favourable to the claimant than the determination reviewed, the claimant and the Department shall, subject to the provisions of paragraph (3), also be notified in writing of the reasons for such refusal or determination, and the claimant shall be notified of the conditions governing an appeal to a Commissioner.

(**a**) 1975 c. 15
(**b**) S.R. 1975 No. 102 (I, p. 620), as amended by S.R. 1977 No. 250 (II, p. 1347)
(**c**) S.I. 1972/1265 (N.I. 14)

(3) If he consents to forego it, a claimant need not be notified of the reasons for a determination on review when it takes place.

(4) Where notification of a determination on review is given to the claimant without a statement of the reasons for it, he shall at the same time be notified of the conditions governing an appeal to a Commissioner and of his right under paragraph (5) to be provided with such a statement.

(5) Where a statement of reasons was not sent with the determination on review the claimant or the Department may, within 3 months from the date on which a notification of the determination was sent to the claimant or within such further time as the Board may for special reasons allow, make a request in writing for notification of the reasons for the determination whereupon the claimant and the Department shall be notified in writing of those reasons and the claimant shall again be notified of the conditions governing an appeal to a Commissioner.".

Amendment of regulation 10 of the principal regulations

4. Regulation 10 of the principal regulations (appeals to a Commissioner on a question of law) shall be amended by the substitution, for paragraph (2) of that regulation, of the following—

"(2) An application for leave to appeal by virtue of paragraph (1) shall be made in writing to a Commissioner within 3 months, or within such further time as a Commissioner may for special reasons allow, from the date on which there was sent to the claimant—

(*a*) if reasons in writing were sent to him at the same time, notification of refusal to review, or of the determination on review, as the case may be, or

(*b*) where sent later under regulation 9(5), notification of the reasons for any determination on review, or

(*c*) if the Board refused to extend time for applying for reasons under regulation 9(5), notification of the refusal,

and every such application shall include a statement of the question of law in respect of which it is alleged that the determination or refusal to review by the Board is erroneous and on which it is wished to appeal.".

Amendment of the Schedule to the principal regulations

5. In the Schedule to the principal regulations (attendance allowance not payable to persons living in accommodation provided in pursuance of, or provided wholly or partly at public expense in pursuance of, any of the enactments specified) there shall be added in the appropriate columns a reference to—

"1950 c. 29 (N.I.). The Employment and Training Act (Northern Ireland) 1950, sections 1(1), 3(2) and 3(3)(*a*) and (*b*).".

Revocations

6. Paragraph (1)(*d*) and (*e*) and paragraphs (3) and (5) of regulation 2 of the principal regulations (entitlement conditions relating to residence and presence in Northern Ireland) and regulation 2 of the Social Security (Attendance Allowance) (Amendment) Regulations (Northern Ireland) 1977 (amendment of paragraph (3) of regulation 2 of the principal regulations) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 19th December 1979.

(L.S.) *W. J. Sloane*
Senior Assistant Secretary

EXPLANATORY NOTE

(This Note is not part of the Regulations but is intended to indicate their general purport.)

These regulations, which amend the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975 ("the principal regulations"), come into operation on 14th January 1980. Regulation 2 amends regulation 7 of the principal regulations to ensure that attendance allowance is not payable in respect of a child who is living in accommodation provided wholly or partly at public expense (unless he is boarded-out with foster parents), except when that child is living with his parents in their home. Regulation 3 removes the obligation of the Attendance Allowance Board to give reasons in writing when making decisions on review favourable to claimants and in cases where claimants forego their rights to be given reasons but it enables them and the Department subsequently to apply for such reasons. Regulation 4 makes consequential amendments to provisions stating the time limits for appeals to the Commissioner. Regulation 5 varies provisions of the Schedule to the principal regulations concerning non-payment of attendance allowance to persons in accommodation provided at public expense. Regulation 6 removes conditions formerly applicable to persons born outside Northern Ireland and to aliens, and revokes certain provisions as a consequence of amendments made by these regulations.