**1979 No. 102**

# SOCIAL SECURITY

## The Social Security (Attendance Allowance) (Amendment) Regulations (Northern Ireland) 1979

*Made* . . . . . 30*th March* 1979

*Coming into operation* . . . 2*nd April* 1979

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 35(2)(*b*), (2A) and (5A) 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, interpretation and commencement*

**1.**—(1) These regulations, which may be cited as the Social Security (Attendance Allowance) (Amendment) Regulations (Northern Ireland) 1979, shall be read as one with the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975(**b**), (hereinafter referred to as "the principal regulations") and shall come into operation on 2nd April 1979.

*Addition to principal regulations*

**2.** Immediately after regulation 5 of the principal regulations there shall be inserted a new Part IIIA to those regulations which Part is set out in the Schedule to these regulations.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 30th March 1979.

(L.S.)

*W. J. Sloane*
Senior Assistant Secretary

(a) 1975 c. 15, section 35 was amended by Article 3 of the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5))
(b) S.R. 1975 No. 102 (I, p. 620), to which there are amendments not affecting the subject of these regulations

SCHEDULE Regulation 2

**Part IIIA inserted in the principal regulations by regulation 2**

PART IIIA

RE-QUALIFICATION AND RENAL DIALYSIS

*Qualifying period for entitlement to an allowance after an interval of non-entitlement*

**5A.**—(1) This regulation has effect in respect of a claim for attendance allowance where for a period immediately preceding the date of the claim, either—

(*a*) there was not in force a certificate issued under section 35(2) of the Act (period for which an allowance is payable), and the Board consider that the person in respect of whom the claim is made has satisfied or is likely to satisfy either or both of the conditions specified in section 35(1) of the Act (the day and night conditions) for a period of at least 6 months beginning not more than 2 years after a period during which there was in force a certificate under section 35(2) in respect of that person; or

(*b*) such a certificate was in force but it did not state that both the conditions specified in section 35(1) were satisfied and the Board consider that the person in respect of whom the claim is made has satisfied or is likely to satisfy both the conditions specified in section 35(1) for a period of at least 6 months beginning not more than 2 years after a period during which there was in force a certificate under section 35(2) in respect of that person stating that both the conditions specified in section 35(1) were satisfied.

(2) In a case to which this regulation applies the period prescribed under section 35(2)(*b*) of the Act (condition that a qualifying period of not less than 6 months must precede the period for which the Board may issue a certificate), for the purpose of allowing and setting a limit to an interval between the qualifying period and that for which the Board determine that the person concerned again satisfies or is likely to satisfy the conditions applicable under section 35(2)(*a*), is 2 years.

*Dialysis prescribed for purpose of a person's satisfying one of the conditions for an allowance*

**5B.**—(1) In the case of a person suffering from renal failure, treatment by way of renal dialysis administered regularly for two or more sessions a week, in the course of which and as a result of which he requires from another person attention in connection with his bodily functions or supervision in order to avoid substantial danger to himself, is hereby prescribed under section 35(2A) of the Act (persons deemed to satisfy conditions for an allowance) to the extent indicated in paragraph (2).

(2) In a period throughout which a person undergoes or is expected to undergo treatment prescribed by this regulation he shall be deemed to satisfy or to be likely to satisfy one of the two conditions mentioned in section 35(1) (day condition and night condition) for the purposes of—

(*a*) if regulation 5C applies to him in the period in question, section 35(2)(*b*) (qualifying period), or

(*b*) in any other case, section 35(2) (period for which an allowance is payable).

*Persons dialysing as health service out-patients deemed not to satisfy conditions for an allowance*

**5C.**—(1) This regulation has effect where a person suffering from renal failure undergoes or is expected to undergo treatment by way of renal dialysis as an out-patient in a hospital or in an institution treated as a hospital, being treatment under the Health and Personal Social Services (Northern Ireland) Order 1972(c).

(c) S.I. 1972/1265 (N.I. 14)

(2) Where this regulation has effect, for the purpose of section 35(2)(*a*) (conditions to be satisfied in a period for which a certificate is issued), the person concerned shall be deemed not, by virtue of attendance requirements occasioned by treatment referred to in paragraph (1), to satisfy either of the conditions mentioned in section 35(1), but without prejudice to the application of section 35(2)(*b*) (qualifying period) or to any rights under section 35 with respect to attendance requirements arising from any cause other than such treatment.

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## EXPLANATORY NOTE

*(This note is not part of the regulations but is intended to indicate their general purport.)*

These regulations which are made under powers conferred by section 35 of the Social Security (Northern Ireland) Act 1975 as amended and extended by Article 3 of the Social Security (Northern Ireland) Order 1979, amend the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975 (the 1975 Regulations) and come into operation on 2nd April 1979. Regulation 2 and the Schedule insert a new Part IIIA in the 1975 Regulations consisting of regulations 5A, 5B and 5C.

Under section 35 of the Social Security (Northern Ireland) Act 1975 (c. 15) entitlement to attendance allowance depends on satisfying conditions, set out in subsection (1), both as respects the period for which an allowance is claimed and a 6 months' qualifying period preceding it. Where a certificate was issued showing these conditions to have been satisfied as respects an earlier claim, regulation 5A allows a gap of up to 2 years to intervene between the qualifying period and the new period with respect to which the Attendance Allowance Board determine that attendance conditions are, or are likely to be, again satisfied.

Regulations 5B and 5C (to be inserted in the 1975 Regulations) apply to persons suffering from renal failure who are undergoing renal dialysis. Regulation 5B prescribes that if dialysis takes place regularly twice a week it is deemed to satisfy one of the two conditions mentioned in section 35(1) for the purpose of the qualifying period and, except where regulation 5C applies, for the purpose of determining the period for which there is entitlement to an allowance. Regulation 5C provides that where dialysis is administered to a person as out-patient treatment under the health service in a hospital or similar institution he is deemed not to satisfy either of the conditions for an allowance, but this applies only to the period for which an allowance is claimed—not the qualifying period—and the regulation does not affect rights respecting attendance requirements due to causes other than renal dialysis.