1983 No. 203

SOCIAL SECURITY

The Social Security (Attendance Allowance) (Amendment) Regulations (Northern Ireland) 1983

Made	*27th July 1983*
Coming into operation . . .	*8th August 1983*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 35, 81(1) and 85(1) of the Social Security (Northern Ireland) Act 1975(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations which correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and which accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980(**b**) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Attendance Allowance) (Amendment) Regulations (Northern Ireland) 1983 and shall come into operation on 8th August 1983.

(2) In these regulations—

"the principal regulations" means the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975(**c**), and

"the Claims and Payments Regulations" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977(**d**).

Amendment of the principal regulations

2.—(1) In regulation 5 of the principal regulations (circumstances in which attendance allowance may be paid to adults in hospital and certain other accommodation) after paragraph (2) there shall be inserted—

"(3) Where a child who was resident in accommodation to which regulation 7(1) refers (children in hospital and certain other accommodation) attains the age of 16, the periods to which this regulation applies shall include any periods to which regulation 7(1) and (2) formerly applied, provided that the final period to which regulation 7(1) or (2) applied and the first period to which either regulation 3 or 4 applies are not separated by more than 28 days.".

(2) In regulation 7 of the principal regulations (children in hospital and certain other accommodation) for paragraph (2) there shall be substituted—

(**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)) and Article 3 of, and paragraph 8 of Part II of Schedule 1 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) and section 85(1) was amended by Article 23(1) of, and paragraph 29 of Schedule 4 to, the Child Benefit (Northern Ireland) Order 1975 (S.I. 1975/1504 (N.I. 16))

(**b**) 1980 c. 30

(**c**) S.R. 1975 No. 102; the relevant amending regulations are S.R. 1977 Nos. 73 and 250, and S.R. 1979 No. 458

(**d**) S.R. 1977 No. 351; the relevant amending regulations are S.R. 1980 Nos. 267 and 385, and S.R. 1982 No. 284

"(2) Where any person was entitled to attendance allowance in respect of a child for the period immediately before that child entered any accommodation mentioned in paragraph (1)(*a*) or (1)(*b*) or that child commenced to undergo any treatment mentioned in paragraph (1)(*c*) as the case may be, those paragraphs shall not apply to the first 4 weeks of any period during which the child is in such accommodation or is undergoing such treatment, so however that for the purposes of this paragraph—

(*a*) 2 or more distinct periods separated by an interval not exceeding 28 days, or by 2 or more such intervals, shall be treated as a continuous period equal in duration to the total of such distinct periods and ending on the last day of the later or last such period;

(*b*) any period or periods to which paragraph (1)(*a*), (1)(*b*) or (1)(*c*) refers shall be taken into account and aggregated with any other period to which the other paragraphs refer.".

Amendment of the Claims and Payments Regulations

3.—(1) The Claims and Payments Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 16 (time and manner of payment of certain pensions and allowances)—

(*a*) in paragraph (10) after "by the Act" there shall be inserted "except regulation 18,";

(*b*) in paragraph (11) at the end there shall be added "except in a case to which regulation 18 applies.".

(3) For regulation 18 (attendance allowance payable at a daily rate between periods when no allowance is payable) there shall be substituted—

"*Circumstances in which attendance allowance is to be paid at a daily rate*

18.—(1) Attendance allowance shall be paid in respect of any person for any day falling within a period to which paragraph (2) applies at the daily rate (which shall be equal to 1/7th of the weekly rate) and attendance allowance payable in pursuance of this regulation shall be paid weekly or as the Department may direct in any case.

(2) This paragraph applies to any period which—

(*a*) begins on the day immediately following the last day of a period during which a person was living in hospital or other accommodation specified in regulation 3, 4 or 7(1) of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975; and

(*b*) ends—

(i) if the first day of the period was a day of payment, at midnight on the day preceding the 13th following day of payment, or

(ii) if that day was not a day of payment, at midnight on the day preceding the 14th following day of payment, or

(iii) if earlier, on the day immediately preceding the day on which regulation 3, 4, 5, 7(1) or 7(2) next applies to his case;

if on the first day of the period it is expected that, before the expiry of the period of 13 weeks beginning with that day, he will return to hospital or other accommodation to which regulation 3, 4, 5 or 7 applies.

(3) In this regulation "day of payment" means the appropriate day of the week for the payment of attendance allowance to the person concerned determined in accordance with regulation 16(7).".

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 27th July 1983.

(L.S.) *A. N. Burns*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations amend the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975 (the "principal regulations") and, as respects attendance allowance only, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1977 (the "Claims and Payments Regulations").

Regulation 5 of the principal regulations, which provides that attendance allowance remains payable for the first 4 weeks during which a person over 16 is undergoing treatment in hospital or is resident in certain other accommodation where the cost is borne or may be borne out of public or local funds, is amended so that periods spent in similar accommodation before that person reaches 16 are to be taken into account for the purposes of the regulation.

Regulation 7 of the principal regulations is amended so that attendance allowance will be payable, as it is for adults, for the first 4 weeks during which a child is living in accommodation to which the enactments mentioned in the Schedule to the principal regulations refer.

A new regulation 18 is substituted in the Claims and Payments Regulations which specifies the circumstances in which attendance allowance will be paid at a daily rate instead of a weekly rate during an interval between two periods when a person is in hospital or certain other accommodation.