STATUTORY INSTRUMENTS

1990 No. 1871

SOCIAL SECURITY

The Social Security (Attendance Allowance and Claims and Payments) Amendment Regulations 1990

Made - - - -	*14th September 1990*
Laid before Parliament	*14th September 1990*
Coming into force	*5th October 1990*

The Secretary of State for Social Security, in exercise of powers conferred by sections 35(5) and 166(2) of, and Schedule 20 to, the Social Security Act 1975**(a)** and sections 51(1)(g) and (r) and 84(1) of the Social Security Act 1986**(b)**, and of all other powers enabling him in that behalf, by this instrument, which contains only Regulations consequential upon section 1 of the Social Security Act 1990**(c)** and which is made before the end of a period of 6 months beginning with the coming into force of that section**(d)**, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Attendance Allowance and Claims and Payments) Amendment Regulations 1990 and shall come into force on 5th October 1990.

Amendment of the Social Security (Attendance Allowance) (No. 2) Regulations 1975

2. In paragraph (1) of regulation 6 of the Social Security (Attendance Allowance) (No. 2) Regulations 1975**(e)** (modification of section 35(1) to (4) of the Social Security Act 1975 in its application to children) for the words "Sub-sections (1) to (4) of section 35" there shall be substituted the words "Except where the child is one to whom sub-section (2B) of section 35**(f)** of the Act applies, sub-sections (1) to (4) of that section shall have effect".

Amendment of the Social Security (Claims and Payments) Regulations 1987

3. After regulation 36 of the Social Security (Claims and Payments) Regulations 1987**(g)** (payment to a partner as alternative payee) there shall be added the following regulation:

"Claims for and payment of attendance allowance where section 35(2B) of the Act applies to a child

36A.—(1) In this regulation, "child" means a person under the age of 16.

(a) 1975 c.14. Schedule 20 is cited for the meaning it ascribes to "Prescribe" and "Regulations". Section 166(2) is applied by section 83(1) of the Social Security Act 1986 (c.50) to regulation making powers conferred by that Act. **(b)** 1986 c.50. Section 84(1) is cited for the meaning it ascribes to "regulations". **(c)** 1990 c.27.
(d) *See* S.I. 1990/1446. **(e)** S.I. 1975/598 to which the relevant amendment is S.I. 1990/581.
(f) Section 35 (2B) was inserted into the Social Security Act 1975 by section 1 of the Social Security Act 1990 (c.27) with effect from 1st October 1990. *See* S.I. 1990/1446. **(g)** S.I. 1987/1968.

(2) Where a child claims or is regarded as claiming an attendance allowance on the ground that he is a terminally ill person (a) the Secretary of State shall, in accordance with the following provisions of this regulation, appoint a person to exercise on behalf of that child, any right to which he may be entitled under the Social Security Act 1975 in connection with the allowance and to receive and deal on his behalf with any sums payable by way of that allowance.

(3) A person appointed by the Secretary of State shall be –

(a) in the case of a child living with his mother, his mother; or

(b) in the case of a child who is not living with his mother but is living with his father, his father; or

(c) in the case of a child who is living with a person who is neither his mother nor his father, the person with whom the child is living; or

(d) in any case to which sub-paragraphs (a) to (c) above do not apply, such person as the Secretary of State may determine.

(4) Where the Secretary of State has made an appointment under the preceding provisions of this regulation –

(a) he may at any time revoke it;

(b) the person appointed may resign his office having given the Secretary of State one month's notice in writing of his intention to do so;

(c) any such appointment shall cease to have effect on the day the child attains the age of 16.".

Signed by authority of the Secretary of State for Social Security.

Nicholas Scott
Minister of State,
Department of Social Security

14th September 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Attendance Allowance) (No. 2) Regulations 1975 ("the Attendance Allowance Regulations") and the Social Security (Claims and Payments) Regulations 1987.

Regulation 2 exempts a child who is terminally ill from the need to satisfy any of the additional requirements for attendance allowance imposed by regulation 6 of the Attendance Allowance Regulations. Regulation 3 enables the Secretary of State to appoint a person with whom the child is living to act on behalf of the child in connection with his claim for an attendance allowance and for that appointee to receive any sums payable by way of attendance allowance. Provision is made for the termination of any appointment.

The Regulations contained in this instrument are consequential upon section 1 of the Social Security Act 1990 (c.27), and are made before the end of the period of 6 months beginning with the coming into force of that enactment. They are accordingly exempted by section 61(5) of the Social Security Act 1986 (c.50) as amended by the Social Security Act 1989 (c.24), Schedule 8, paragraph 12(3), from reference to the Social Security Advisory Committee and have not been so referred.

(a) Section 35(2B) was inserted into the Social Security Act 1975 by section 1 of the Social Security Act 1990 (c.27) with effect from 1st October 1990. *See* S.I. 1990/1446.

55p net

ISBN 0 11 004871 7

Printed in the United Kingdom for HMSO
880 WO1676 C34 9/90 452 7102 O/N 88174