1992 No. 134

SOCIAL SECURITY

The Social Security (Introduction of Disability Living Allowance) (Amendment) Regulations (Northern Ireland) 1992

Made . . . . . 16th March 1992

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 7(1), (2)(*g*) and (*k*) and 13(1)(*a*) of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and interpretation

1.—(1) These regulations may be cited as the Social Security (Introduction of Disability Living Allowance) (Amendment) Regulations (Northern Ireland) 1992.

(2) In these regulations "the principal regulations" means the Social Security (Introduction of Disability Living Allowance) Regulations (Northern Ireland) 1992(**b**).

(3) The Interpretation Act 1978(**c**) shall apply to these regulations as it applies to an Act of the United Kingdom Parliament.

Amendment of regulation 19 of the principal regulations

2. In regulation 19 of the principal regulations (claims for attendance allowance or mobility allowance treated as not having been made) for the words from "made on that day" to the end there shall be substituted "for attendance allowance or mobility allowance made on or after the day on which the claim for disability living allowance was made shall be treated as not having been made.".

Amendment of regulation 22 of the principal regulations

3. In regulation 22 of the principal regulations (determination of claims for, or of applications for review of decisions relating to, attendance allowance) for paragraph (9) there shall be substituted the following paragraph—

"(9) For the purposes of the provisions of Part III of the Act in so far as they relate to the review of decisions of adjudication officers, any

(a) S.I. 1991/1712 (N.I. 17)
(b) S.R. 1992 No. 38
(c) 1978 c. 30

determination made by the Board under section 105(3) or 106(1)(**a**) together (if applicable) with any certificate issued or altered in consequence of that determination shall, after 5th April 1992, be treated as a decision of an adjudication officer and as such shall be subject to review on the same grounds and in the same circumstances as decisions of adjudication officers.".

Amendment of regulation 23 of the principal regulations

4.—(1) Regulation 23 of the principal regulations (appeals to Commissioners from decisions of the Board) shall be amended in accordance with paragraphs (2) and (3) of this regulation.

(2) For paragraph (1) there shall be substituted the following paragraphs—

"(1) Subject to paragraph (1A), after 5th April 1992 an appeal lies to a Commissioner, with his leave or that of another Commissioner, against a determination by the Board of any question of law arising from either—

(*a*) a review made by the Board under section 106(1); or

(*b*) a refusal by the Board to review a determination made by them under section 105(3) or 106(1),

at the instance of the claimant in question or the Department.

(1A) Those provisions of the Social Security Commissioners Procedure Regulations (Northern Ireland) 1987(**b**) which on 5th April 1992 applied to applications or appeals made under section 106(2)(**c**) shall apply in like manner to applications and appeals made under paragraph (1).".

(3) In paragraph (2) at the beginning there shall be inserted "On or after 16th March 1992,".

Amendment of regulation 27 of the principal regulations

5.—(1) Regulation 27 of the principal regulations (persons unable to act) shall be amended in accordance with paragraphs (2) and (3) of this regulation.

(2) In paragraph (1), for "Subject to paragraphs (2) to (4)" there shall be substituted "Except as provided by paragraph (3)".

(3) Paragraph (4) shall be omitted.

Sealed with the Official Seal of the Department of Health and Social Services on 16th March 1992.

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

(**a**) 1975 c. 15; section 105(3) was amended by Article 3(3) of the Social Security (Northern Ireland) Order 1990 (S.I. 1990/1511 (N.I. 15)) and section 106(1) was amended by paragraph 10 of Schedule 5 to the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18)), paragraph 13 of Schedule 7 to the Social Security (Northern Ireland) Order 1989 (S.I. 1989/1342 (N.I. 13)) and Article 3(4) of the Social Security (Northern Ireland) Order 1990

(**b**) S.R. 1987 No. 112

(**c**) 1975 c. 15; section 106(2) was substituted by paragraph 8 of Schedule 3 to the Social Security (Northern Ireland) Order 1989

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations, which come into operation on 16th March 1992, amend the Social Security (Introduction of Disability Living Allowance) Regulations (Northern Ireland) 1992 ("the principal regulations"). They 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 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30), are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

Regulation 2 amends regulation 19 of the principal regulations so as to clarify the circumstances in which a claim for attendance allowance or mobility allowance shall be treated as not having been made.

Regulation 3 substitutes regulation 22(9) of the principal regulations thereby extending the circumstances in which a determination of the Attendance Allowance Board for Northern Ireland shall be treated as a decision of an adjudication officer.

Regulation 4 amends regulation 23 of the principal regulations so as to provide for appeals, and applications for leave to appeal, to a Social Security Commissioner against a determination by the Attendance Allowance Board for Northern Ireland after the Board's dissolution on 6th April 1992.

Regulation 5 amends regulation 27 of the principal regulations so as to clarify the provisions relating to the appointment of persons to receive disability living allowance on behalf of persons who are unable to act.

Articles 7 and 13 of the Disability Living Allowance and Disability Working Allowance (Northern Ireland) Order 1991 are the enabling provisions under which these regulations are made. They were brought into operation on 26th November 1991 by virtue of Article 2(*a*) of the Disability Living Allowance and Disability Working Allowance (1991 Order) (Commencement No. 2) Order (Northern Ireland) 1991 (S.R. 1991 No. 501 (C. 24)).