

2007 No. 2875

SOCIAL SECURITY

The Social Security (Attendance Allowance and Disability Living Allowance) (Amendment) Regulations 2007

<i>Made</i> - - - -	<i>2nd October 2007</i>
<i>Laid before Parliament</i>	<i>8th October 2007</i>
<i>Coming into force</i> -	<i>29th October 2007</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 67(2), 72(8) and 175 of the Social Security Contributions and Benefits Act 1992(a).

This instrument contains only regulations made consequential upon section 60 of the Welfare Reform Act 2007(b) and is made before the end of the period of 6 months beginning with the coming into force of that section(c).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Attendance Allowance and Disability Living Allowance) (Amendment) Regulations 2007 and shall come into force on 29th October 2007.

(2) In these Regulations—

"the Attendance Allowance Regulations" means the Social Security (Attendance Allowance) Regulations 1991(d);

"the Disability Living Allowance Regulations" means the Social Security (Disability Living Allowance) Regulations 1991(e).

{Regulation 2 amends regulations 2 & 3 of S.I. 1991/2740}

(a) 1992 c. 4. Sections 67(2) and 72(8) were amended by section 60 of the Welfare Reform Act 2007 (c. 5).

(b) 2007 c. 5.

(c) See section 173(5)(b) of the Social Security Administration Act 1992 (c. 5).

(d) S.I. 1991/2740. Regulation 7 of the Attendance Allowance Regulations has been amended on a number of occasions. However, given that that regulation is substituted in its entirety by regulation 3 of these Regulations, none are relevant. Regulation 8 of the Attendance Allowance Regulations has been amended by S.I. 1992/703, 1992/3147, 1993/518, 1996/1345, 1999/2860, 2000/1401, 2002/3019, 2003/2259. Other amendments which are not relevant to these Regulations have been made to the Attendance Allowance Regulations.

(e) S.I. 1991/2890. Regulation 9 of the Disability Living Allowance Regulations has been amended on a number of occasions. However, given that that regulation is substituted in its entirety by regulation 6 of these Regulations, none are relevant. Regulation 10 of the Disability Living Allowance Regulations has been amended by S.I. 1992/633, 1992/3147, 1993/518, 1996/1345, 1999/2860, 2000/1401, 2002/208, 2002/3019, 2003/2259. Other amendments which are not relevant to these Regulations have been made to the Disability Living Allowance Regulations.

Transitional and saving provisions

4.—(1) The substitution by these Regulations of regulation 7 of the Attendance Allowance Regulations shall not prevent any day before the coming into force of these Regulations from being included in the first 28 day period to which regulation 8(1) of the Attendance Allowance Regulations refers.

(2) The substitution by these Regulations of regulation 9 of the Disability Living Allowance Regulations shall not prevent any day before the coming into force of these Regulations from being included in—

- (a) the first 28 day period to which regulation 10(1) of the Disability Living Allowance Regulations refers; or
- (b) the first 84 days to which regulation 10(2) of the Disability Living Allowance Regulations refers where that person has not attained the age of 16.

Signed by authority of the Secretary of State for Work and Pensions

2nd October 2007

James Plaskitt
Parliamentary Under Secretary of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 60 of the Welfare Reform Act 2007 (c. 5) makes amendments to the Social Security Contributions and Benefits Act 1992 (c. 4) ("the 1992 Act") replacing the current regulation-making powers (sections 67(2) and 72(8)) with new powers (sections 67(2)-(7) and 72(8)-(13)) to prescribe the circumstances in which Attendance Allowance or the care component of Disability Living Allowance shall not be paid to people resident in care homes.

Care home is defined in sections 67(3) and 72(9) of the 1992 Act as being an establishment that provides accommodation together with nursing or personal care.

These Regulations provide the circumstances in which an attendance allowance or the care component of a disability living allowance shall not be payable where a person is resident in a care home. The circumstances are where any of the costs of any qualifying services provided for a person in a care home are met, in whole or in part, out of public or local funds under a specified enactment. Qualifying services is defined in sections 67(4) and 72(10) of the 1992 Act as being the provision of accommodation, board or personal care.

Regulation 4 provides transitional and saving provisions.