

1987 No. 100

SOCIAL SECURITY

The Social Fund (Maternity and Funeral Expenses) (Claims and Payments) Regulations (Northern Ireland) 1987

Made 9th March 1987

Coming into operation 6th April 1987

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 52(1)(a) to (r) and 55 of the Social Security (Northern Ireland) Order 1986(a), section 114 of the Social Security (Northern Ireland) Act 1975(b) and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Social Fund (Maternity and Funeral Expenses) (Claims and Payments) Regulations (Northern Ireland) 1987 and shall come into operation on 6th April 1987.

Interpretation

2. In these regulations—

- “the Order” means the Social Security (Northern Ireland) Order 1986;
- “the actual date of confinement” means the date of the issue of the child or, if the woman is confined of twins or a greater number of children, the date of the issue of the last of them;
- “the adjudicating authority” means the person with responsibility under the Social Security (Northern Ireland) Acts 1975 to 1986(c), and regulations made thereunder, for the determination of claims for social fund payments and questions arising in connection with such claims;
- “beneficiary” means a person who has been awarded a social fund payment;
- “claimant” means a person claiming a social fund payment;

(a) S.I. 1986/1888 (N.I. 18)

(b) 1975 c. 15; section 114 is amended by the Social Security (Northern Ireland) Order 1986, Schedule 5, paragraph 14 and applied to social fund payments by Article 53(5) of that Order

(c) See Article 1(2) of the Social Security (N.I.) Order 1986

“confinement” means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead.

“funeral” means burial or cremation;

“social fund payment” means a payment out of the social fund under Article 33(2)(a) of the Order, to meet maternity expenses or funeral expenses;

“week” means a period of 7 days beginning with midnight between Saturday and Sunday.

PART II

CLAIMS

Making a claim for a social fund payment

3.—(1) Every claim for a social fund payment shall be made in writing on a form approved by the Department, or in such other manner, being in writing, as the Department may accept as sufficient in the circumstances of any particular case.

(2) Forms of claim shall be supplied without charge by the Department or by such persons as the Department may appoint or authorise for that purpose.

(3) Every claim shall be sent to an office of the Department.

(4) If a claim is defective at the date when it is received, or has been made in writing but not on the form approved for the time being, the Department may refer the claim to the person making it or, as the case may be, supply him with the approved form, and if the form is received properly completed within one month, or such longer period as the Department may consider reasonable, from the date on which it is referred or supplied, the Department shall treat the claim as if it had been duly made in the first instance.

(5) A claim which is made on the approved form for the time being is, for the purposes of paragraph (4) and regulation 5, properly completed if completed in accordance with the instructions on the form and defective if not so completed.

Amendment and withdrawal of claim

4.—(1) A person who has made a claim may amend or withdraw it, at any time before a determination has been made on it, by a notice in writing delivered or sent to an office of the Department and any claim so amended may be treated as if it had been so amended in the first instance.

(2) A notice of withdrawal, delivered or sent in accordance with paragraph (1), shall have effect when it is received.

Date of claim

5. Subject to regulation 7(4), the date on which a claim is made shall be—

(a) in the case of a claim which meets the requirements of regulation 3(1) the date on which it is received in an office of the Department;

- (b) in the case of a claim which does not meet the requirements of regulation 3(1) but which is treated, under regulation 3(4), as having been duly made, the date on which the claim was received in an office of the Department in the first instance.

Evidence, information and attendance

6.—(1) Every person who makes a claim for a social fund payment shall furnish such certificates, documents, information and evidence in connection with the claim, or any question arising out of it, as may be required by the Department and shall do so within one month of being required to do so, or such longer period as the Department may consider reasonable.

(2) Every claimant shall attend at such office or place as the Department may direct, for the purpose of furnishing certificates, documents, information and evidence under paragraph (1), if reasonably so required by the Department.

Time for making a claim

7.—(1) A claim for a social fund payment for maternity expenses may be made no earlier than 11 weeks before the expected week of confinement and, subject to paragraph (3), no later than 3 months after the actual date of confinement or, in the case of an adopted baby, subject to paragraph (4), the date of the adoption order.

(2) A claim for a social fund payment for funeral expenses may be made no earlier than the date of death of the deceased and, subject to paragraph (3), no later than 3 months after the date of the funeral.

(3) Where the claimant makes a claim on a date between 3 and 12 months from the actual date of confinement or, as the case may be, the funeral and proves that there was good cause, throughout the period from the expiry of the 3 months, for the failure to make the claim before it was made, the time prescribed by paragraph (1) or, as the case may be, (2) shall be extended to the date on which the claim is made.

(4) Where a claimant for maternity expenses in respect of an adoption makes a claim on a date between 3 and 12 months from the date of the adoption order and proves that there was good cause, throughout the period from the expiry of the 3 months, for the failure to make the claim before it was made, the claim shall be treated as if it had been made immediately before the expiry of the 3 months.

PART III

PAYMENTS

Time and manner of payment

8. Subject to the provisions of Part IV (Third Parties), a social fund payment shall be made to a beneficiary under an award as soon as is reasonably practicable after the award has been made, by means of such instrument of payment as appears to the Department to be appropriate in the circumstances of any particular case.

Payment to a person under 18

9. Where a person who is awarded a social fund payment is under the age of 18, his signature on any instrument of payment shall be a sufficient discharge to the Department for any sum paid under such instrument.

Payment on the death of the claimant

10.—(1) On the death of a claimant the Department may appoint such person as it may think fit to proceed with the claim.

(2) Subject to paragraph (4), any sum payable under an award proceeded with under paragraph (1) may be paid or distributed by the Department to or amongst persons over the age of 16 claiming as personal representatives, legatees, next of kin, or creditors of the deceased (or, where the deceased was illegitimate, to or amongst other persons over the age of 16), and regulation 16 (extinguishment of right to be paid) shall apply to any such payment or distribution; and—

- (a) the receipt of any such person shall be a good discharge to the Department for any sum so paid;
- (b) where the Department is satisfied that any such sum, or part of it, is needed for the benefit of any person under the age of 16, the Department may obtain a good discharge for it by paying the sum, or part, to a person over that age who satisfies the Department that he will apply the sum so paid for the benefit of the person under the age of 16.

(3) Subject to paragraph (4), any social fund payment which was payable to the deceased, at the date of his death, may, unless the right to it was already extinguished at that date, be paid or distributed to or amongst such persons as are mentioned in paragraph (2), and regulation 16 shall apply to any such payment or distribution, except that the period of 12 months shall be calculated from the date on which the right to payment of any sum is treated as having arisen in relation to any such person, not the date on which it is treated as having arisen in relation to the deceased.

(4) Paragraphs (2) and (3) shall not apply unless written application for the payment is made to the Department within 12 months from the date of the deceased's death or such longer period as the Department may consider reasonable.

(5) The Department may dispense with strict proof of the title of any person claiming under this regulation.

(6) In paragraph (2) "next of kin" means the persons who would take beneficially on an intestacy under the provisions of Part II of the Administration of Estates Act (Northern Ireland) 1955(a).

Information to be given when obtaining payment of benefit

11. Every beneficiary and every person by whom or on whose behalf social fund payments are receivable shall furnish in such manner and at such times as the Department may determine such certificates and other documents and such information of facts affecting the right to the payment as the Department may require (either as a condition on which any payments shall be

(a) 1955 c. 24 (N.I.)

receivable or otherwise), and in particular shall notify the Department of any change of circumstances which he might reasonably be expected to know might affect the right to the payment, as soon as reasonably practicable after the occurrence thereof, by giving notice in writing of any such change to the Department.

PART IV

THIRD PARTIES

Persons unable to act

12.—(1) Where in the case of any person—

- (a) he is entitled to, or alleged to be entitled to, a social fund payment;
- (b) he is unable for the time being to act; and
- (c) no controller has been appointed by the High Court with power to claim, or as the case may be, receive payment on his behalf,

the Department may upon written application made to it by a person who, if a natural person, is over the age of 18, appoint that person to exercise, on behalf of the person who is unable to act, any right to which that latter person may be entitled under the Order and to receive and deal on his behalf with any sums payable to him.

(2) Where the Department has made an appointment under paragraph (1)—

- (a) it may at any time in its discretion revoke any such appointment;
- (b) the person appointed may resign his office after having given one month's notice in writing to the Department of his intention to do so;
- (c) any such appointment shall terminate when the Department is notified that a controller has been appointed by the High Court.

(3) Anything required by these regulations to be done by or to any person who is for the time being unable to act may be done by or to the controller appointed by the High Court, or by or to the person appointed under paragraph (1) and the receipt of any person appointed under paragraph (1) shall be a good discharge to the Department for any sum paid.

Payment to another person on the beneficiary's behalf

13. If it appears to the Department to be necessary for protecting the interests of the beneficiary, or any child or dependant in respect of whom a social fund payment is payable, or if the beneficiary so requests, the Department may direct that it shall be paid, wholly or in part, to another person on the beneficiary's behalf.

Direct payment to a third party

14. Where a social fund payment is made, wholly or in part, in respect of a debt which is, or will be, due to a third person, the instrument of payment may be, and in the case of funeral expenses shall be, made payable to that person and it may, in any case, be delivered or sent to that person as a direct payment.

PART V

SUSPENSION AND EXTINGUISHMENT

Suspension

15. Where it appears to the Department that a question has arisen in relation to a person's entitlement to a social fund payment, it may direct that payment shall be suspended, wholly or in part, pending the determination of that question on review, appeal or reference.

Extinguishment of right to be paid

16.—(1) The right to be paid a social fund payment shall, subject to paragraph (2), be extinguished where payment is not obtained within 12 months from the date on which the right is to be treated as having arisen; and for the purposes of this regulation the right shall be treated as having arisen—

(a) in relation to any sum contained in an instrument of payment which has been given or sent to the person to whom it is payable, or to a place approved by the Department as a place for collection by him (whether or not received or collected as the case may be)—

(i) on the date of that instrument of payment, or

(ii) if a further instrument of payment has been given or sent as a replacement, on the date of the last such instrument;

(b) in relation to any sum to which sub-paragraph (a) does not apply, where notice is given (whether orally or in writing) or is sent that the sum contained in the notice is available for collection—

(i) if written notice is sent through the post, on the date on which it would be delivered in the ordinary course of post, and

(ii) in any other case, on the date of the notice,

and, in any case, if more than one such notice is given or sent, on the date determined by reference to the first such notice;

(c) in relation to any such sum to which neither sub-paragraph (a) nor (b) applies, on such date as the Department determines.

(2) The giving or sending of an instrument of payment under paragraph (1)(a), or of a notice under paragraph (1)(b), shall be effective for the purposes of that paragraph, even where the sum contained in the instrument, or notice, is more or less than the sum which the person concerned has the right to receive.

(3) Where a question arises whether the right to payment has been extinguished under this regulation and the adjudicating authority is satisfied that—

(a) after the expiration of the period of 12 months the Department has received written notice requesting payment of that sum; and

(b) throughout a period commencing within that period of 12 months and continuing up to the date on which that notice was given there was good cause for not giving that notice,

that period of 12 months shall be extended to the date on which the adjudicating authority decides that question and, for the purposes of this

regulation, the right to payment of that sum shall, notwithstanding the provisions of paragraph (1), be treated, thereafter, as having arisen on that date.

(4) This regulation shall apply to a person authorised or appointed to act on behalf of a beneficiary as it applies to a beneficiary.

PART VI

MISCELLANEOUS

Instruments of payment

17. Instruments of payment issued by the Department shall remain its property; and any person having such an instrument shall, on ceasing to be entitled to the payment to which the instrument relates or, when so required by the Department, deliver the instrument to the Department or to such other person as the Department may direct.

Breach of regulations

18. If any person contravenes or fails to comply with any requirement of regulation 11 or 17 he shall for such offence be liable on summary conviction to a penalty not exceeding £400 or, where the offence consists of continuing any such contravention or failure after conviction, £40 for each day on which it is so continued.

Sealed with the Official Seal of the Department of Health and Social Services on 9th March 1987.

(L.S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations provide for the making of claims for social fund payments for maternity or funeral expenses and for the payment of sums awarded. They correspond to provision contained in regulations made by the Secretary of State for Social Services 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.

Articles 52(1)(a) to (r) and 55 of the Social Security (Northern Ireland) Order 1986 are the enabling provisions under which these regulations are made. They are brought into operation on 6th April 1987 by virtue of Schedule 2 to the Social Security (1986 Order) (Commencement No. 3) Order (Northern Ireland) 1987 (S.R. 1987 No. 21 (C. 3)).