
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 155

SOCIAL SECURITY

**The Social Security (Social Fund and Claims
and Payments) (Miscellaneous Amendments)
Regulations (Northern Ireland) 1997**

Made - - - -

14th March 1997

Coming into operation

7th April 1997

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 134(1)(a) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽¹⁾ and sections 5(1)(a) and 165(1), (3) and (4) of the Social Security Administration (Northern Ireland) Act 1992⁽²⁾ and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Social Fund and Claims and Payments) (Miscellaneous Amendments) Regulations (Northern Ireland) 1997 and shall come into operation on 7th April 1997.

(2) In these Regulations—

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987⁽³⁾;

“the Social Fund Regulations” means the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987⁽⁴⁾.

(3) The Interpretation Act (Northern Ireland) 1954⁽⁵⁾ shall apply to these Regulations as it applies to a Measure of the Assembly.

Amendment of the Social Fund Regulations

2.—(1) The Social Fund Regulations shall be amended in accordance with paragraphs (2) to (7).

(1) 1992 c. 7

(2) 1992 c. 8

(3) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1996 No. 432

(4) S.R. 1987 No. 150; relevant amending Regulations are S.R. 1988 Nos. 6 and 22, S.R. 1989 No. 71, S.R. 1992 No. 394, S.R. 1994 No. 68, S.R. 1995 No. 190 and S.R. 1996 Nos. 423 and 571

(5) 1954 c. 33 (N.I.)

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “the Order” there shall be inserted the following definition—

““absent parent” means a parent of a child who has died or of a still-born child where—

- (a) the parent was not living in the same household with the child at the date of that child’s death or at the date the child was still-born; and
- (b) that child had at the date of death, or would have had, his home with a person who was responsible for that child for the purposes of Part IX of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;”;

(ii) after the definition of “funeral payment” there shall be inserted the following definition—

““immediate family member” means a parent, son or daughter;”;

(iii) after the definition of “a person affected by a trade dispute” there shall be inserted the following definition—

““prescribed time for claiming” means the appropriate period during which a maternity payment or, as the case may be, a funeral payment, may be claimed pursuant to regulation 19(1) of, and Schedule 4 to, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(6);”;

(iv) in the definition of “responsible person”(7) for “6(1)(b)” there shall be substituted “6(1)(a)”;

(b) for paragraph (1A)(8) there shall be substituted the following paragraph—

“(1A) For the purposes of Part III, persons are to be treated as members of the same household where those persons—

- (a) are married to each other and are living in the same residential accommodation, residential care home or nursing home as defined for the purposes of the Income Support Regulations or, as the case may be, of the Jobseeker’s Allowance Regulations; or
- (b) were partners immediately before either or both or any or all of those persons moved permanently into such accommodation or home as is referred to in sub-paragraph (a),

and that person is or, as the case may be, those persons are resident in such accommodation or home at the date of death of the person in respect of whom a funeral payment is claimed.”.

(3) In regulation 3 (provision against double payment)—

- (a) in paragraph (2) after “in question” there shall be added “or to persons who have been granted an order in respect of the child in question pursuant to section 30 of the Human Fertilisation and Embryology Act 1990(9) (parental orders)”;
- (b) in paragraph (3) after “in question” there shall be added “or in respect of any other funeral expenses arising from the death of the same person”.

(4) In regulation 4 (entitlement to a maternity payment)—

(6) Paragraph 9 was amended by regulation 2(6) of [S.R. 1996 No. 432](#)

(7) Definition of “responsible person” was amended by regulation 2(b) of [S.R. 1994 No. 68](#)

(8) Paragraph (1A) was inserted by regulation 2(3) of [S.R. 1996 No. 423](#)

(9) [1990 c. 37](#)

- (a) in paragraph (1)—
 - (i) at the end of sub-paragraph (b)(ii) for “and” there shall be substituted “or”;
 - (ii) in sub-paragraph (b) after head (ii) there shall be inserted the following head—
 - “(iii) the claimant and the claimant’s spouse have been granted an order in respect of a child pursuant to section 30 of the Human Fertilisation and Embryology Act 1990 (parental orders); and”;
 - (iii) in sub-paragraph (c)(10) for the words from “period” to the end there shall be substituted “prescribed time for claiming a maternity payment”;
 - (b) in paragraph (2)(11) after sub-paragraph (c) there shall be added the following sub-paragraph—
 - “(d) where the claim is made after an order referred to in paragraph (1)(b)(iii) has already been granted in respect of a child, £100 in respect of that child.”.
- (5) For regulation 6(12) (entitlement to a funeral payment) there shall be substituted the following regulations—

“Entitlement

6.—(1) Subject to paragraphs (2) to (7), regulation 7 and to Parts IV and V, a social fund payment (referred to in these Regulations as a “funeral payment”) to meet funeral expenses shall be made only where—

- (a) the claimant or his partner (in this Part referred to as “the responsible person”), at the date of the claim for a funeral payment has an award of income support, income-based jobseeker’s allowance, family credit, disability working allowance or housing benefit;
- (b) the funeral of the deceased takes place in the United Kingdom or, providing the deceased was normally resident in Northern Ireland, in the Republic of Ireland;
- (c) the deceased was ordinarily resident in the United Kingdom at the date of his death;
- (d) the claim is made within the prescribed time for claiming a funeral payment; and
- (e) the claimant or his partner accepts responsibility for those expenses and—
 - (i) the responsible person was the partner of the deceased at the date of death,
 - (ii) in a case where the deceased was a child or a still-born child and—
 - (aa) there is no absent parent, or
 - (bb) there is an absent parent who, or whose partner, was awarded a benefit to which sub-paragraph (a) refers at the date of death,the responsible person was the person or the partner of a person responsible for that child for the purposes of Part IX of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, at the date of death, or, as the case may be, a parent of that still-born child,
 - (iii) in a case where heads (i) and (ii) do not apply, the responsible person was an immediate family member of the deceased and it is reasonable for the responsible person to accept responsibility for those expenses, or
 - (iv) in any other case, the responsible person was either—

(10) Sub-paragraph (c) was amended by regulation 3(1)(b) of [S.R. 1988 No. 22](#)

(11) Paragraph 2 was substituted by regulation 3(b) of [S.R. 1992 No. 394](#)

(12) Regulation 6 was amended by [S.R. 1988 Nos. 6 and 22](#), [S.R. 1992 No. 6](#), [S.R. 1995 No. 190](#) and [S.R. 1996 Nos. 423 and 571](#)

(aa) a close relative (other than an immediate family member) of the deceased, or

(bb) a close friend of the deceased,

and it is reasonable for the responsible person to accept responsibility for those expenses.

(2) For the purposes of paragraph (1)(e)(iii) and (iv), the deceased shall be treated as having had no partner where the deceased had a partner at the date of death and—

(a) no claim for funeral expenses is made by the partner in respect of the death of the deceased; and

(b) that partner dies before the date upon which the deceased's funeral takes place.

(3) In a case to which paragraph (1)(e)(iii) or (iv) applies and subject to paragraph (4), the responsible person shall not be entitled to a funeral payment under these Regulations where—

(a) there are one or more immediate family members of the deceased (not including any immediate family members who were children at the date of death of the deceased);

(b) neither those immediate family members nor their partners have been awarded a benefit to which paragraph (1)(a) refers; and

(c) any of the immediate family members to which sub-paragraph (b) refers was not estranged from the deceased at the date of his death.

(4) Paragraph (3) shall not apply to disentitle the responsible person from a funeral payment where the immediate family member to whom that paragraph applies is—

(a) a person who is aged less than 19 and who is attending a full-time course of advanced education as defined in regulation 61 of the Income Support Regulations or, as the case may be, a person aged 19 or over but under pensionable age who is attending a full-time course of study at an educational establishment;

(b) a member of, and fully maintained by, a religious order;

(c) being detained in a prison or young offender's centre and either that immediate family member or his partner had been awarded a benefit to which paragraph (1)(a) refers immediately before that immediate family member was so detained; or

(d) a person who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(13) or, as the case may be, the Social Security (Hospital In-Patients) Regulations 1975(14) and either that immediate family member or his partner had been awarded a benefit to which paragraph (1)(a) refers immediately before that immediate family member was first regarded as receiving such treatment.

(5) In a case to which paragraph (1)(e)(iii) or (iv) applies, whether it is reasonable for a person to accept responsibility for meeting the expenses of a funeral shall be determined by the nature and extent of that person's contact with the deceased.

(6) Except in a case where paragraph (7) applies, in a case where the deceased had one or more close relatives and the responsible person is a person to whom paragraph (1)(e)(iii) or (iv) applies, if on comparing the nature and extent of any close relative's contact with the deceased and the nature and extent of the responsible person's contract with the deceased, any such close relative was—

(a) in closer contact with the deceased than the responsible person;

(13) S.R. 1975 No. 109; relevant amending Regulations are S.R. 1992 No. 453

(14) S.I. 1975/555; relevant amending instrument is S.I. 1992/2595

- (b) in equally close contact with the deceased and neither that close relative nor his partner, if he has one, has been awarded a benefit to which paragraph (1)(a) refers; or
- (c) in equally close contact with the deceased and possesses, together with his partner, if he has one, more capital than the responsible person and his partner and that capital exceeds—

- (i) where the close relative or his partner is aged 60 or over, £1,000, or
- (ii) where the close relative and his partner, if he has one, are both aged under 60, £500,

the responsible person shall not be entitled to a funeral payment under these Regulations in respect of those expenses.

(7) Paragraph (6) shall not apply where the close relative who was in closer contact with the deceased than the responsible person or, as the case may be, was in equally close contact with the deceased—

- (a) was a child at the date of death; and
- (b) was the only close relative (not being a child) to whom any of sub-paragraphs (a) to (c) of paragraph (6) applies.

Amount of funeral payment

6A.—(1) Subject to paragraphs (4) and (5), regulation 7 and Part IV, the amount of a funeral payment shall be an amount sufficient to meet any of the costs which fall to be met or have been met by the claimant or his partner or a person acting on their behalf and which are specified in paragraph (2), inclusive of any available discount on those costs allowed by the funeral director or by any other person who arranges the funeral.

(2) The costs which may be met for the purposes of paragraph (1) are—

- (a) except where sub-paragraph (b) applies, in the case of a burial—
 - (i) the necessary costs of purchasing a new burial plot for the deceased, together with an exclusive right of burial in that plot,
 - (ii) the necessary costs of the burial;
- (b) in the case of a cremation—
 - (i) the necessary costs of the cremation, including medical references,
 - (ii) the cost of any necessary registered medical practitioner's certificates,
 - (iii) the fee payable for the removal of any device as defined for the purposes of the Active Implantable Medical Devices Regulations 1992⁽¹⁵⁾ save that where that removal is carried out by a person who is not a registered medical practitioner, no more than £20 shall be met in respect of that fee;
- (c) the cost of obtaining any documentation, production of which is necessary in order to release any assets of the deceased which may be deducted from a funeral payment pursuant to regulation 7;
- (d) where the deceased died at home or away from home and it is necessary to transport the deceased within the United Kingdom in excess of 50 miles to the funeral director's premises or to the place of rest, the reasonable cost of transport in excess of 50 miles;

⁽¹⁵⁾ S.I. 1992/3146, to which there is an amendment not relevant to these Regulations

- (e) where transport is provided by a vehicle for the coffin and bearers and by one additional vehicle, from the funeral director's premises or the deceased's place of rest to the funeral and—
 - (i) that transportation necessarily exceeds 50 miles, or
 - (ii) that transportation exceeds 50 miles and the cost of that transportation together with the cost of burial in an existing plot does not exceed the cost which would have been incurred under sub-paragraph (a) and, where appropriate, under head (i),
the reasonable cost of transport in excess of 50 miles;
 - (f) the reasonable expenses of one return journey within the United Kingdom and, where the funeral takes place in the Republic of Ireland, the Republic of Ireland, for the responsible person, either for the arrangement of, or attendance at, the funeral;
 - (g) any other funeral expenses which shall not exceed £600 in any case.
- (3) All references in paragraph (2)(d) and (e) to a distance of 50 miles shall be construed as applying to the total distance of the journey referred to in those sub-paragraphs.
- (4) The cost of items and services which may be met under paragraph (2)(a), (d) and (e) shall not be taken to include any element in the cost of those items and services which relates to a requirement of the deceased's religious faith.
- (5) Where items and services have been provided on the death of the deceased under a pre-paid funeral plan or under any analogous arrangement—
- (a) no funeral payment shall be made in respect of items or services referred to in paragraph (2) which have been provided under such a plan or arrangement; and
 - (b) paragraph (2)(g) shall have effect in relation to that particular claim as if for the sum "£600" there were substituted the sum "£100".
- (6) In regulation 7(16) (deductions from an award of a funeral payment)—
- (a) at the beginning there shall be inserted "(1) Subject to paragraph (2),";
 - (b) in paragraph (1)—
 - (i) in sub-paragraph (c) after "any contribution" there shall be inserted "towards funeral expenses" and the words from " , but only to the extent" to the end shall be omitted;
 - (ii) for sub-paragraph (e) there shall be substituted the following sub-paragraph—
 - "(e) in relation to a pre-paid funeral plan or any analogous arrangement—
 - (i) where the plan or arrangement had not been paid for in full prior to the death of the deceased, the amount of any sum payable under that plan or arrangement in order to meet the deceased's funeral expenses,
 - (ii) where the plan or arrangement had been paid for in full prior to the death of the deceased , the amount of any allowance paid under that plan or arrangement in respect of funeral expenses."
 - (c) after paragraph (1) there shall be added the following paragraph—
 - "(2) The amount of any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund or the Eileen Trust shall be disregarded from any deduction made under this regulation and for the purpose of this paragraph, "the Macfarlane Trust", "the Macfarlane (Special

(16) Regulation 7 was amended by regulation 3(b) of S.R. 1994 No. 68, regulation 4 of S.R. 1995 No. 190 and regulation 6 of S.R. 1996 No. 423

Payments) Trust”, “the Macfarlane (Special Payments) (No. 2) Trust”, “the Fund” and “the Eileen Trust” shall have the same meaning as in regulation 2(1) of the Income Support Regulations.”.

(7) In regulation 8(3)(c)(17) (effect of capital) for “6(3) and (4)” there shall be substituted “6A(2)”.

Amendment of the Claims and Payments Regulations

3. In Schedule 4 to the Claims and Payments Regulations, in paragraph 8 for the entry in column (2) (prescribed time for claiming a maternity payment) there shall be substituted—

“The period beginning 11 weeks before the first day of the expected week of confinement and ending 3 months after—

- (a) the actual date of confinement;
- (b) in the case of an adopted child, the date of the adoption order; or
- (c) in the case of a child in respect of whom an order has been granted pursuant to section 30 of the Human Fertilisation and Embryology Act, the date of that order.”.

Transitional provision

4. Where, in respect of a death which occurs before 7th April 1997, a claim is made for funeral expenses from the social fund in respect of a funeral which takes place on or before 7th July 1997, regulation 2(2), (3)(b), (5), (6) and (7) shall not have effect with respect to that claim.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland
on

L.S.

14th March 1997.

John O'Neill
Assistant Secretary

(17) Regulation 8(3) was inserted by regulation 3(3) of [S.R. 1989 No. 71](#) and amended by regulation 5 of [S.R. 1995 No. 190](#) and regulation 7(4) of [S.R. 1996 No. 423](#)

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EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987 (“the Social Fund Regulations”) and the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”) in so far as those Regulations relate to claims for payment of maternity and funeral expenses.

In particular, regulation 2(5) codifies the provisions of the Social Fund Regulations whereby the conditions for entitlement to, and payment of, funeral payments are prescribed.

In addition, these Regulations amend the Social Fund Regulations by—

- (a) providing simplified criteria relating to which funeral costs may be met (regulation 2(5) (in relation to the new regulation 6A));
- (b) providing that only one funeral payment award may be made in respect of each death (regulation 2(3)(b));
- (c) providing that maternity payments may be made in respect of children in respect of whom there has been a parental order under the Human Fertilisation and Embryology Act 1990 (regulation 2(4)(a)(ii) and (b)) and that such payments may be made both to the birth parents and to the persons granted a parental order (regulation 2(3)(a));
- (d) providing that no funeral payment may be made in certain circumstances, where there are immediate family members or absent parents of the deceased (as defined for the purpose of the Social Fund Regulations) (regulation 2(2)(a)(i) and (ii) and (5) (in relation to the new regulation 6(1)(e)(ii) and (iii), (3) and (4)));
- (e) treating the deceased, in certain circumstances, as if he had no partner at the date of death (regulation 2(5) (in relation to the new regulation 6(2)));
- (f) providing that where the deceased is a child or a still-born child, the responsible person shall, unless there is an absent parent who is not in receipt of a qualifying benefit, be the person responsible for that child (regulation 2(5) (in relation to the new regulation 6(1)(e)(ii)));
- (g) introducing new rules as to what types of payment may be disregarded when making deductions from funeral payments and clarifying what is meant by a funeral plan deducted from a funeral payment and providing that certain amounts should be disregarded for the purpose of such deductions (regulation 2(6));
- (h) clarifying the position relating to partners of claimants who are in long-term care (regulation 2(2)(b));
 - (i) correcting technical errors relating to the qualifying benefits for a funeral payment and to rules on capital and making consequential amendments (regulation 2(2)(a)(iii) and (iv), (5) and (7) (in relation to the new regulation 6(1)(a)(i) and 8).

These Regulations also amend the Claims and Payments Regulations by amending the period during which claims for maternity payments may be made (regulation 3).

Regulation 4 provides a transitional provision relating to certain provisions in respect of claims for funeral payments in respect of deaths occurring before 7th April 1997.

These Regulations correspond 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 149(3) of, and

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paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.