

**2011 No. 130**

**SOCIAL SECURITY**

**The Social Fund Maternity and Funeral Expenses (General)  
(Amendment) Regulations (Northern Ireland) 2011**

*Made* - - - - - *21st March 2011*

*Coming into operation* - - - - - *23rd March 2011*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 134(1)(a) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and sections 5(1)(a) and 165(1), (4) and (5) of the Social Security Administration (Northern Ireland) Act 1992(b) and now vested in it(c).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Fund Maternity and Funeral Expenses (General) (Amendment) Regulations (Northern Ireland) 2011 and shall come into operation on 23rd March 2011.

(2) In these Regulations “the principal Regulations” means the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005(d).

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

**Amendment of the principal Regulations**

2.—(1) The principal Regulations are amended in accordance with paragraphs (2) to (4) (but subject to regulation 3).

(2) In Part II, before regulation 5 insert—

**“Persons to be treated as responsible for children**

4A.—(1) For the purposes of this Part, subject to paragraph (4), a person (“P”) is to be treated as responsible for a child if paragraph (2) or (3) applies.

(2) This paragraph applies if—

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(a) 1992 c. 7; section 134(1) was amended by Article 66(1) of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10) and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)  
(b) 1992 c. 8; section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)  
(c) See Article 8(b) of S.R. 1999 No. 481  
(d) S.R. 2005 No. 506; relevant amending Regulation is S.R. 2010 No. 378  
(e) 1954 c. 33 (N. I.)

- (a) P is receiving child benefit in respect of the child, unless P is a child in respect of whom another person is receiving child benefit; or
  - (b) no one is receiving child benefit in respect of the child but the child usually lives with P.
- (3) This paragraph applies where P is receiving child benefit in respect of a child who is in receipt of child benefit in respect of another child, in which case P is to be treated as responsible for both children.
- (4) P is not to be treated as responsible for a child if the child is—
- (a) being looked after by a authority within the meaning given by Article 2 of the Children Order<sup>(a)</sup> unless the child usually lives with P; or
  - (b) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court.”.
- (3) In regulation 5<sup>(b)</sup>(entitlement)—
- (a) in paragraph (1) for “regulation 6” substitute “ regulations 5A and 6”;
  - (b) for paragraph (3)(b) substitute—
    - “(b) the child’s parents are not partners at the date of the claim and the claimant—
      - (i) is the parent (but not the mother) of the child (who must not exceed the age of twelve months at the date of the claim), or is responsible for that parent, and
      - (ii) is responsible for the child;”.
- (4) After regulation 5 insert—

**“Award not to be made where another member of the claimant’s family is under 16 unless an exception applies**

**5A.**—(1) In this regulation “C” is the child or still-born child in respect of whom a Sure Start Maternity Grant is claimed.

(2) Except where paragraph (3) or (4) applies, a Sure Start Maternity Grant shall not be awarded if, at the date of the claim, any member of the claimant’s family apart from C is under the age of 16.

- (3) This paragraph applies where—
- (a) C is one of two or more children—
    - (i) born or still-born as a result of the same pregnancy, or
    - (ii) (if the claim is made before the confinement in a case where regulation 5(3)(a) applies) who are expected to be born as a result of the same pregnancy; and
  - (b) at the date of claim there is no member of the claimant’s family apart from either C or the other child or children born as a result of that pregnancy who is under the age of 16.
- (4) This paragraph applies where at the date of claim—
- (a) a parent of C (“P”) is under 20 years of age and a member of the claimant’s family; and
  - (b) except in the circumstances set out in paragraph (3)(a), the claimant’s family does not include any child of P who is under 16 years of age apart from C.”.

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(a) S.I. 1995 No. 755 (N.I. 2)

(b) Regulation 5 was substituted by regulation 2(5) of S.R. 2010 No. 378

### Transitional provisions

3.—(1) The amendments made by regulation 2(3)(a) and (4) do not apply in a case where any of paragraphs (2) to (7) apply.

(2) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(a) of the principal Regulations;
- (b) the claim is made before C’s birth;
- (c) the claim is made before 11th April 2011; and
- (d) the expected date of confinement is before 11th April 2011.

(3) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(a) or (b) of the principal Regulations;
- (b) the claim is made after C’s birth; and
- (c) C is born before 11th April 2011.

(4) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(c) of the principal Regulations; and
- (b) the qualifying order is made before 11th April 2011.

(5) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(d) of the principal Regulations; and
- (b) the appointment as guardian takes effect before 11th April 2011.

(6) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(e) of the principal Regulations; and
- (b) the child is placed for adoption with the claimant or the claimant’s partner by virtue of an order freeing a child for adoption before 11th April 2011.

(7) This paragraph applies in a case where—

- (a) the claimant falls within regulation 5(3)(f) of the principal Regulations; and
- (b) the adoption referred to in that provision takes effect before 11th April 2011.

(8) In this regulation—

- (a) “C” means the child or still-born child in respect of whom a Sure Start Maternity Grant is claimed; and
- (b) “child”, “claimant”, “confinement”(a), “guardian”(b), “qualifying order”(c), “order freeing a child for adoption”(d), “still-born child” and “Sure Start Maternity Grant” have the meanings given in regulation 2(1) of the principal Regulations.

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(a) The definition of “confinement” was amended by regulation 2(2)(c) of S.R. 2010 No. 378

(b) The definition of “guardian” was inserted by regulation 2(2)(d) of S.R. 2010 No. 378

(c) The definition of “qualifying order” was inserted by regulation 2(2)(f) of S.R. 2010 No. 378

(d) The definition of “order freeing a child for adoption” was inserted by regulation 2(2)(e) of S.R. 2010 No. 378

## **Amendment of the Social Security (Claims and Payments) Regulations**

4. In paragraph 8(a) of Schedule 4 to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(b) (prescribed times for claiming benefit) for sub-paragraph (b) substitute—

“(b) in a case where regulation 5(3)(b) of the 2005 Regulations applies, with the date on which the claimant becomes responsible for the child and ending 3 months after that date.”.

Sealed with the Official Seal of the Department for Social Development on 21st March 2011

(L.S.)

*Anne Mc Cleary*

A senior officer of the Department for Social Development

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 (“the 2005 Regulations”) and the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987.

Regulation 2 amends the 2005 Regulations to provide that a Sure Start Maternity Grant is payable only where the child in respect of whom the Grant is claimed is the sole member of the claimant’s family who is under sixteen years of age, except where (a) the claim relates to a child who is one of two or more children born as a result of the same pregnancy, and it is those siblings who are under sixteen; or (b) the child’s mother (or other parent if the child is living in their household and not with the mother) is under twenty years of age, has no other child of theirs in the household (except in the case of a multiple birth) and is the claimant’s dependant. (These amendments in relation to eligibility for Sure Start Maternity Grants have effect subject to the transitional provisions in regulation 3).

Regulation 2 also adds to the 2005 Regulations a definition for the purposes of Sure Start Maternity Grants as to when a person is to be treated as “responsible for” a child; and amends regulation 5(3) to make clear that a claimant responsible for a parent of a child (who is not the mother) may be awarded a Sure Start Maternity Grant for the child. (These changes are not subject to the transitional provisions in regulation 3).

Regulation 4 amends Schedule 4 to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 so that the time for claiming for a claimant to whom regulation 5(3)(b) of the 2005 Regulations applies is 3 months from the date on which the claimant becomes responsible for the child.

These Regulations make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and 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.

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(a) Paragraph 8 was substituted by regulation 3(a) of S.R. 2010 No. 378

(b) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1997 No. 155, S.I. 2010/986 and S.R. 2010 No. 378

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