

EXPLANATORY MEMORANDUM TO
THE SOCIAL FUND MATERNITY AND FUNERAL EXPENSES (GENERAL)
(AMENDMENT) REGULATIONS
(NORTHERN IRELAND) 2013

S.R. 2013 No. 58

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 134(1)(a) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations amend the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005.
- 2.2. The proposed changes set out in these amending Regulations will simplify the existing Funeral Payment scheme by disregarding all arrears of final benefit payments and tax credits owed to the deceased. The current funeral payment policy classes benefits and tax credits owed to the deceased as assets to be deducted from any award made. The process to determine deductions from a funeral payment award is time consuming and complicated.
- 2.3. The provisions included in this set of Regulations will simplify the complicated administrative procedures which can currently create errors for the accounts and delays in administering funeral payments. Simplifying the current system for calculating funeral payments by disregarding arrears of benefit and tax credits will be beneficial to both applicants and decision makers here.
- 2.4. Regulation 1 provides for the title and commencement.
- 2.5. Regulations 2 provides that arrears of benefits and tax credits listed in paragraph (4) which are payable to the deceased, as at the date of death, are excluded from the assets of the deceased.

3. Background

- 3.1. The Funeral Payment scheme provides a contribution to a simple respectful funeral. However, to safeguard public funds and to ensure that the scheme only provides a contribution, lump sums available from insurance policies, or monies available from relatives or charities; along with any assets of the deceased that are immediately available, are deducted from a funeral payment award. This includes arrears of benefit and tax credits due to the deceased after their death, and which are generally paid to the next of kin (or they have access to them). It is usual for the next of kin to be the person responsible for the funeral expenses.

- 3.2. The Department proposes to amend the current Funeral Payment rules from 1st April 2013 in line with corresponding regulations in Great Britain so that arrears of benefit and tax credits are disregarded when calculating a Funeral Payment award. In Great Britain the current policy of ensuring all available assets of the deceased are taken into account when calculating a funeral payment must be revised prior to the introduction of Universal Credit. This is necessary because Universal Credit will be paid monthly; payments will be considerably larger than current benefit payments and include housing costs (and counted as an asset). Under Universal Credit, without an amendment, Funeral Payments would likely be reduced to zero.
- 3.3. Given the delay in introducing Universal Credit in Northern Ireland we are unable to follow suit and introduce equivalent Regulations. This means it will be necessary to produce a further set of amending Regulations in Northern Ireland in the future which will add both Universal Credit and Personal Independence Payment to the list of benefits where arrears payable are to be excluded from the assets of the deceased. The future set of amending Regulations will also make provision enabling Universal Credit to act as a gateway to the Sure Start Maternity Grant and Funeral Payment schemes.

4. Consultation

- 4.1. As the 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 they do not have to be submitted to the Social Security Advisory Committee.

5. Equality Impact

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on these legislative proposals. As no adverse equality impacts were found, the Department has concluded that the proposal would not have significant implications for equality of opportunity, and considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

- 6.1. These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities or voluntary bodies.

7. Financial Implications

- 7.1. The Regulations are not expected to give rise to any significant cost.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule is not incompatible with any of the Convention rights; is not incompatible with Community law; does not discriminate against a person or class of person on the ground of religious belief or political opinion; and does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The corresponding Great Britain Regulations are the Social Fund (Maternity and Funeral Expenses) (Amendment) Regulations 2013 and come into force on 1st April 2013. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.

11. Additional Information

11.1. Not applicable.