

EXPLANATORY MEMORANDUM TO

The Social Fund Funeral Expenses (Amendment) Regulations (Northern Ireland) 2018

S.R. 2018 No. 45

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Communities to accompany the Statutory Rule (details above) which is to be laid before the Northern Ireland Assembly.
- 1.2. These Regulations are made under sections 1(1) and 5 of the Social Security Administration (Northern Ireland) Act 1992 and sections 134 and 171(1) and (5) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and are subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations make amendments to the provisions relating to Funeral Expenses Payments from the Social Fund.

3. Background

- 3.1. The Social Fund helps eligible benefit claimants with certain one off or occasional expenses through Cold Weather Payments, Funeral Expenses Payments, Sure Start Maternity Grants and Budgeting Loans.
- 3.2. Social Fund Funeral Expenses Payments helps eligible claimants with the cost of arranging a funeral. Funeral Expenses Payments meet the 'necessary costs' of a cremation or burial; these are broadly, the cost of purchasing a grave with exclusive burial rights, basic crematorium or burial fees, the costs of necessary documentation and (in some cases) transport of the deceased's body. An additional discretionary element can be used to help pay for items such as flowers, car hire, the funeral ceremony and funeral director charges for making the arrangements. The discretionary element is capped at £700 (or £120 where the claimant is provided with some items or services under a pre-paid funeral plan). These amendments are designed to clarify eligibility and to simplify the application process.
- 3.3. Currently, applications for a funeral expenses payment must be made within three months of the date of the funeral and applicants and funeral directors must submit hard copies of any evidence required in support of a claim. These regulations extend the application limit to six months and allow supporting evidence, for example, funeral directors' invoices, to be submitted electronically.
- 3.4. These regulations also exempt a person living in a care home, and who is funded by a local Health and Social Care trust, from being assigned responsible person status in respect of making funeral arrangements.

Currently, a claim for a funeral expenses payment can be refused because the deceased has an immediate relative other than the applicant, who is not receiving a qualifying benefit and to whom responsibility would be assigned despite the fact that they are in a care home funded by their local Health and Social Care trust and unlikely to be able to pay for the funeral.

- 3.5. The terminology used in the current regulations has created confusion around what expenses can be covered as part of 'the necessary costs' of a funeral. In particular, the use of the term 'exclusive rights of burial' has meant that funeral expenses payments have only been paid in respect of burial plots that have been granted for an infinite period of time. Similarly, the use of the term 'purchase' has created a lack of clarity around whether or not there is a legal right of 'purchase' relating to a burial plot. These regulations amend the current provisions to ensure that the cost of all burials are met, irrespective of whether or not the plot has been granted exclusively to a single owner.
- 3.6. Currently, applicants for a funeral expenses payment are required to declare any contributions they have received from charities, friends or relatives towards the funeral costs; and any such payments are deducted from the amount payable. These regulations allow applicants to receive such contributions without them being deducted from the total value of their award.

4. Consultation

- 4.1. The Department issued a public consultation on its proposed changes to the Funeral Expenses Regulations on 24 July 2017 and it closed on 15 September 2017. The consultation attracted eleven responses. Nine of the responses were from representative organisations, funeral directors and charities and the other two were from political parties.
- 4.2. Overall, the responses were in favour of the proposals to amend Funeral Expenses Payments. However, all respondents raised the adequacy of the current discretionary element of the Funeral Expenses Payment.

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 proposals for these Regulations and concluded that they do not have significant implications for equality of opportunity. In light of this, the Department considered that an equality impact assessment is not necessary.

6. Regulatory Impact

- 6.1. The regulations do not require a Regulatory Impact Assessment as they do not impose any costs on business, charities or voluntary bodies.

7. Financial Implications

- 7.1. Not applicable.

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 that these Regulations:
- (a) are not incompatible with any of the Convention rights;
 - (b) are not incompatible with Community law;
 - (c) do not discriminate against a person or class of person on the ground of religious belief or political opinion; and
 - (d) do 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 Funeral Expenses Amendment Regulations 2018 (S.I. 2018/61).
- 10.2. In line with the long-standing policy of parity in social security, the Regulations will come into operation on the same date as the corresponding Great Britain Regulations. 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. It was, therefore, necessary to make the Regulations during the period of interregnum.

11. Additional Information

- 11.1. Not applicable