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STATUTORY INSTRUMENTS

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**1975 No. 565**

**SOCIAL SECURITY**

**The Social Security (Death Grant) Regulations 1975**

<i>Made</i>	- - - -	<i>3rd April 1975</i>
<i>Laid before Parliament</i>		<i>4th April 1975</i>
<i>Coming into Operation</i>		<i>6th April 1975</i>

The Secretary of State for Social Services, in exercise of powers conferred by sections 32(4), 82(6) and 119(3) of the Social Security Act 1975 and section 2 of, and paragraphs 3 and 9 of Schedule 3 to, the Social Security (Consequential Provisions) Act 1975 and of all other powers enabling her in that behalf, without having referred any proposals on the matter to the National Insurance Advisory Committee since it appears to her that by reason of urgency it is inexpedient to do so, hereby makes the following regulations:—

**Citation, commencement and interpretation**

1.—(1) These regulations may be cited as the Social Security (Death Grant) Regulations and shall come into operation on 6th April 1975.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1975;

“qualifying contributor” means a person who satisfies the contribution condition specified for death grant in paragraph 7 of Schedule 3 to the Act;

and other expressions have the same meaning as in the Act.

(3) Unless the context otherwise requires, any reference in these regulations to—

(a) a numbered paragraph is a reference to the paragraph of the regulation bearing that number;

(b) any provision made by or contained in an enactment or instrument shall be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889 shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

### **Death grant in respect of children**

2.—(1) A death grant shall be payable, subject to paragraph (2), in respect of the death of a child, notwithstanding that it is not payable under section 32(1) of the Act (persons in respect of whose death a grant may be paid), if either—

- (a) one of the child's parents is or was a qualifying contributor; or
- (b) a qualifying contributor was immediately before the child's death entitled to an increase of benefit in respect of the child under section 41 of the Act, or would have been so entitled had he then been entitled to any benefit in respect of which that section provides an increase.

(2) The amount of the grant payable by virtue of paragraph (1) shall not exceed the amount of the funeral expenses except that this limitation shall not apply where, had the child been in Great Britain, he would have been a child of the family of a parent who is a qualifying contributor.

(3) In this regulation “parent” includes a person who has adopted the child pursuant to an order made in the United Kingdom, the Channel Islands or the Isle of Man or to an overseas adoption within the meaning of section 4 of the Adoption Act 1968.

### **Death grant in respect of certain young persons over the minimum school leaving age and incapacitated young persons aged 16 to 19**

3. Where a death grant is not payable by virtue of section 32(1) of the Act in respect of the death of any person who either—

- (a) was a child either at his death or at any time during the tax year in which he died or the preceding tax year; or
- (b) was at his death over the age of 16 and under the age of 19 and was then incapacitated by reason of illness or disability of mind or body for a prolonged period for regular employment;

a death grant shall nevertheless be payable if it would have been payable by virtue of section 32(2) (b) or (c) of the Act, or of regulation 2, had he still been a child when he died.

### **Suspension of payment of death grant pending an appeal**

4. Where a notice of appeal by an insurance officer to a Commissioner from an award of a death grant by a local tribunal is given or sent to the claimant within 21 days of the date on which an insurance officer received the record of the tribunal's decision, payment of the grant shall be suspended until the appeal has been determined.

### **Imprisonment and detention in legal custody**

5.—(1) A person shall not be disqualified for receiving a death grant if he is undergoing a period of imprisonment or detention in legal custody, but, subject to paragraph (2), the payment of the grant shall be suspended during any such periods.

(2) A death grant may be paid, during any period of suspension under paragraph (1), to any person appointed by the Secretary of State to receive and deal with it on behalf of the beneficiary; and a receipt given by that person shall be a good discharge to the Secretary of State and the National Insurance Fund for any sum so paid.

### **Payment of a death grant pending determination of a claim and without due proof of the satisfaction of the relevant conditions**

6.—(1) Where, under arrangements made by the Secretary of State with the consent of the Treasury for the purpose of dealing with an emergency—

- (a) a death grant has been paid pending a determination of a claim for it; and
- (b) it was paid without due proof of the satisfaction of the relevant conditions or otherwise than in accordance with the provisions of the Act and the orders and regulations made under it;

for the purposes of the said provisions, but subject to paragraph (2), the grant shall be deemed to have been duly paid.

(2) Where, in a case to which paragraph (1) applies, the conditions for the receipt of any such grant were not satisfied and the determining authority is satisfied that in the obtaining and receipt of the grant the person to whom it has been paid, or any person acting for him, has not throughout used due care and diligence to avoid overpayment, he shall be liable to repay to the Secretary of State any sum overpaid; and for the purposes of this paragraph “the determining authority” means, as the case may require, an insurance officer, a local tribunal or a Commissioner by whom the relevant question falls to be determined under Part III of the Act.

### **Transitional provisions relating to the contribution condition for a death grant**

7. In respect of the death of any person occurring on or after 6th April 1975, where the qualifying contributor is, or was, a person who was insured under the National Insurance Act 1965, the contribution condition for a death grant specified in paragraph 7(1) of Schedule 3 to the Act shall be deemed to be satisfied if such contributor has paid or been credited with not less than 25 contributions of any class under the said Act—

- (a) between his entry into insurance under that Act and 6th April 1975; or
- (b) if he attained pensionable age before that date, between his entry into insurance under the said Act and the date upon which he attained that age;

so however that any contributions which would have been taken into account for the purposes of a death grant under that Act, had the death occurred immediately before 6th April 1975, shall be taken into account for the purposes of this regulation.

### **Revocation**

8. Regulation 9 of the Widow's Benefit, Retirement Pension and Other Benefits (Transitional) Regulations 1974(1) is hereby revoked.

Signed by authority of the Secretary of State for Social Services,

3rd April 1975

*Brian O' Malley*  
Minister of State  
Department of Health and Social Security

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(1) (1974 III, p. 6264).

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## EXPLANATORY NOTE

These Regulations relate to payment of death grant under the Social Security Act 1975.

The Regulations contain provisions for: payment of a death grant in respect of the death of a child (regulation 2); circumstances in which certain young persons may be treated as children (regulation 3); suspension of payment of a death grant pending an appeal (regulation 4); exception from disqualification for receiving a death grant where the person concerned is imprisoned or detained in legal custody (regulation 5); and payments under emergency arrangements (regulation 6).

The Regulations also contain transitional provisions.