

**2011 No. 100**

**SOCIAL SECURITY**

**The Social Fund Maternity Grant Amendment Regulations 2011**

*Made* - - - - *19th January 2011*

*Laid before Parliament* *20th January 2011*

*Coming into force* - - *24th January 2011*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred upon him by sections 138(1)(a) and (4) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 5(1)(a), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(b).

The Secretary of State referred the proposals for these Regulations to the Social Security Advisory Committee(c).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Fund Maternity Grant Amendment Regulations 2011 and shall come into force on 24th January 2011.

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

**Amendment of the principal Regulations**

2.—(1) The principal Regulations are amended as follows (but subject to regulation 3).

(2) In Part 2, 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—

- (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.

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(a) 1992 c.4; section 138(4) is an interpretation provision and is cited because of the meaning given to the word “prescribed”. Amendments not relevant to these Regulations have been made to section 175(1) and (4).  
(b) 1992 c.5. Section 191 is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”. Amendments not relevant to these Regulations have been made to sections 5 and 189(1), (4) and (5).  
(c) See sections 172 and 174 of the Social Security Administration Act 1992 (c.5).  
(d) S.I. 2005/3061 as amended by S.I. 2010/2760. Other amendments not relevant to these Regulations have also been made.

(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 local authority within the meaning of section 22 of the Children Act 1989<sup>(a)</sup>, or section 93 of the Children (Scotland) Act 1995<sup>(b)</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 (entitlement)<sup>(c)</sup>—

- (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.”.

**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;

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(a) 1989 c.41.

(b) 1995 c.36.

(c) Regulation 5 was substituted by S.I. 2010/2760.

- (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 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;
  - (b) “child”, “claimant”, “confinement”, “guardian”, “qualifying order”, “placed for adoption”, “still-born child” and Sure Start Maternity Grant have the meanings given in the principal Regulations.

**Amendment of the Social Security (Claims and Payments) Regulations 1987**

4. In Schedule 4 to the Social Security (Claims and Payments) Regulations 1987(a) (prescribed times for claiming benefit), in the entry in column (2) at paragraph 8, substitute the following for sub-paragraph (b)—

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

Signed by authority of the Secretary of State for Work and Pensions.

*Steve Webb*  
Minister of State,  
Department for Work and Pensions

19th January 2011

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(a) S.I. 1987/1968 as amended by S.I. 2010/2760.

## EXPLANATORY NOTE

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

These Regulations amend the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 (“the 2005 Regulations”) and the Social Security (Claims and Payments) Regulations 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 1987 so that the time for claiming for a claimant to whom regulation 5(3)(b) of the 2005 Regulations applies is three months from the date on which the claimant becomes responsible for the child.

The Report of the Social Security Advisory Committee dated 6 January 2011 on the Secretary of State’s proposal to make these Regulations, together with a statement showing the extent to which these Regulations give effect to the recommendations of the Committee and, in so far as they do not give effect to them, the reasons why not, are contained in an Act Paper published by The Stationery Office Ltd.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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