
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

The Funeral Expense Assistance (Scotland) Regulations 2019

PART 4

Eligibility

Residence conditions, place of funeral and status

9.—(1) To qualify for funeral expense assistance, the applicant must be ordinarily resident in Scotland at the date of their application for that assistance.

(2) The applicant is not entitled to that assistance unless—

- (a) the deceased person was ordinarily resident in the United Kingdom at the date of his or her death, and
- (b) the place of the funeral is in the United Kingdom, or in a case where paragraph (3) applies, in a member state of the EU, Iceland, Liechtenstein, Norway or Switzerland.

(3) This paragraph applies where the applicant is, or has a partner who is—

- (a) a worker or a self-employed person for the purposes of [Directive 2004/38/EC](#) of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States⁽¹⁾,
- (b) a person who retains the status of a worker or a self-employed person pursuant to Article 7(3) of that Directive,
- (c) a person who is a family member of a person referred to in sub-paragraph (a) or (b) within the meaning of Article 2 of that Directive, or
- (d) a person who has the right to reside permanently in the United Kingdom by virtue of Article 17 of that Directive.

(4) In paragraph (3) the references to [Directive 2004/38/EC](#) are to be read as references to that Directive as it forms part of domestic law.

(5) A person is not entitled to funeral expense assistance if, at the time the application is made, the person is subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999⁽²⁾, unless the person falls within a category or description of persons specified in Part 2 of the schedule of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (persons not excluded under section 115 of that Act from entitlement to various social security benefits)⁽³⁾.

(6) Paragraph (2)(a) does not apply in respect of the funeral of a still-born child.

(1) O.J. L.158, 30.4.2004, p.77.

(2) 1999 c.33. There are amendments to section 115 that are not relevant to these Regulations.

(3) S.I. 2000/636.