

2004 No. 2536

SOCIAL SECURITY

**The Social Fund Maternity and Funeral Expenses
(General) Amendment Regulations 2004**

Made - - - - - 25th September 2004

Laid before Parliament 30th September 2004

Coming into force - - - 25th October 2004

The Secretary of State for Work and Pensions, 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 of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(b), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Fund Maternity and Funeral Expenses (General) Amendment Regulations 2004 and shall come into force on 25th October 2004.

(2) In these Regulations “the Principal Regulations” means the Social Fund Maternity and Funeral Expenses (General) Regulations 1987(c).

Application of the Regulations

2. Regulations 3 and 4 shall apply only in respect of claims for funeral expenses from the social fund where the date of death is on or after 25th October 2004.

Amendment of regulation 7 of the Principal Regulations

3.—(1) Regulation 7 of the Principal Regulations(d) (entitlement to payment for funeral expenses) shall be amended in accordance with the following paragraphs of this regulation.

- (2) In paragraph (4) omit “or” after sub-paragraph (c) and after sub-paragraph (d) add—
“; or
(e) a person ordinarily resident outside the United Kingdom.”.

(a) 1992 c. 4. Section 138 (1) was substituted by section 70(1) of the Social Security Act 1998 (c. 14). Section 138(4) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.

(b) See section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

(c) S.I. 1987/481.

(d) Regulation 7 was, together with regulation 7A, substituted by S.I. 1997/792. It has subsequently been amended by S.I. 1997/2538, 1999/3266, 2001/3023, 2002/2323, 2002/3019 and 2003/455.

(3) For paragraph (7) substitute—

“(7) Paragraph (6) shall not apply where the close relative who was in closer contact with the deceased than the responsible person or, as the case may be, was in equally close contact with the deceased—

- (a) was under the age of 18 at the date of death and was the only close relative (apart from any other person who was under the age of 18 at that date) to whom either sub-paragraph (a) or (b) of paragraph (6) applies; or
- (b) is a person ordinarily resident outside the United Kingdom.”.

Amendment of regulation 7A of the Principal Regulations

4. In regulation 7A of the Principal Regulations(a) (amount of funeral payment), in paragraph (2)(a)(ii) after the words “where the burial takes place” there shall be inserted the words “, or the fees levied by a private grave-digger,”.

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

Chris Pond
Parliamentary Under-Secretary of State,
Department for Work and Pensions

25th September 2004

(a) Regulation 7A has been amended by S.I. 1997/2538, 1999/3266, 2003/471 and 2003/1570.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Fund Maternity and Funeral Expenses (General) Regulations 1987 (S.I. 1987/481) in so far as those Regulations relate to claims for payment of funeral expenses.

Regulation 3 amends regulation 7 so as to limit the scope of tests which operate so as to restrict eligibility for payments.

In general, where there is no surviving partner of the deceased and the deceased is not a child, there are two stages in determining whether the applicant is entitled to a funeral payment—

- (i) under the “immediate family member test” no help is given if there is a parent, son or daughter and neither they nor their partner has been awarded one of the qualifying benefits;
- (ii) under the “nature and extent of contact test” no help is given if a close relative had closer contact with the deceased than the person making the claim: where this is not the case but a close relative had equally close contact with the deceased and neither they nor their partner had been awarded a qualifying benefit, no help will be given.

Regulation 3 makes provision for these tests to be disapplied in respect of family members ordinarily resident outside the United Kingdom.

Regulation 4 amends regulation 7A so as to provide for the payment of fees levied by private contractors in respect of a burial.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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