

EXPLANATORY MEMORANDUM TO
THE SOCIAL FUND AND SOCIAL SECURITY (CLAIMS AND PAYMENTS)
(AMENDMENT) REGULATIONS 2020

2020 No. 600

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to make a number of minor amendments to Social Security legislation. The provision makes changes to the following benefits: Maternity Allowance, Sure Start Maternity Grant, Funeral Expenses Payment, Social Fund Cold Weather Payments, State Pension and Pension Credit.

2.2 For Maternity Allowance, Sure Start Maternity Grants and Funeral Expenses Payments this instrument allows for the introduction of an electronic online claim process. For Funeral Expenses Payments, it also removes a current anomaly, where a local authority grave digger contracted by a local authority cemetery can be paid for by Funeral Expenses Payment, but a private grave digger employed by a local authority cannot.

2.3 For Cold Weather Payments we are changing the reference from “station” to “site” for the location where temperature is measured. We are also amending the meaning of “mean daily temperature” to “in respect of a day, the average of the maximum temperature and minimum temperature forecasted or recorded at a site for that day.

2.4 Changes are also made to remove the requirement for a written application when a State Pension or State Pension Credit claimant dies with unpaid benefit outstanding.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Great Britain in the case of Maternity Allowance, Cold Weather Payments, State Pension and Pension Credit and England and Wales for Sure Start Maternity Grants and Funeral Expenses Payments.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 This instrument makes changes to the [Social Fund Maternity and Funeral Expenses Regulations 2005 \(SI 2005/3061\)](#) to allow a payment to be made for private grave digger to be included as a necessary cost.
- 6.2 This instrument also makes changes to [The Social Fund Cold Weather Payments \(General\) Regulations 1988 \(SI 1988/1724\)](#) by changing any reference in the regulation from “station” to “site” to ensure we can take into account any changes to temperature measurement. There is also a minor change to the definition of “mean daily temperature” which ensures we can take into account both forecasted and recorded temperature when required for administrative purposes.
- 6.3 [The Social Security \(Claims and Payments\) Regulations 1987 \(SI 1987/1968\)](#) are amended to allow electronic claims for benefits as well as the use of electronic communications by including Funeral Expenses Payments, Sure Start Maternity Grants and Maternity Allowance. In respect of State Pension and Pension Credit the change allows payment of arrears following a death to a person over the age of 16 who is the deceased person’s personal representative, legatee, next of kin or creditor without requiring a written application.

7. Policy background

What is being done and why?

- 7.1 The changes being made in respect of electronic claims for Sure Start Maternity Grants, Funeral Expenses Payments and Maternity Allowance are intended to put in place powers to allow claimants to both make electronic claims as well communicate electronically in respect of those claims. The introduction of these changes would be in addition to the current clerical methods for Funeral Expenses Payments, Sure Start Maternity Grants and Maternity Allowance and the further addition of telephone applications for Funeral Expenses Payments and will not detract from the rigorous scrutiny of evidence throughout the claims process.
- 7.2 A further small change to the regulations on Funeral Expenses Payments is there to extend eligibility to private gravediggers and mirror the current position with local authority grave diggers.
- 7.3 The changes relating to Cold Weather Payments include changing the use of the term “station” for “site”. This does not oblige us to use totally new sites and locations but enables us to consider the review which has been undertaken by the Met Office and introduce any changes that we have evidence for that will improve the accuracy of temperature measurement. Another minor change on Cold Weather Payments changes a reference of “recorded” to “forecasted or recorded” and is there to ensure we can take into account both forecasted and recorded temperature when required for administrative purposes.
- 7.4 The final change is about what happens when a person in receipt of State Pension or State Pension Credit dies. The change removes the requirement in the Social Security (Claims and Payments) Regulations 1987 for a written application where there is no

surviving spouse or civil partner and makes the process more consistent with how the Department is interacting with its other customers.

- 7.5 Those Regulations provide that an amount of State Pension and State Pension Credit payable to a deceased person which they had not obtained at the date of death may be paid to specified persons aged over 16 (such as next of kin, personal representatives or creditors of the deceased), provided that an application for the payment is made in writing within 12 months of the death.
- 7.6 Exceptions to this requirement for a written application were introduced in 2007. These exceptions apply where no administrator or executor had been appointed, the person wishing to receive the payment was a surviving spouse or civil partner of the deceased and that survivor was living with the deceased (or would have been living with the deceased if they were not in care).
- 7.7 This amendment extends the exception so that the Secretary of State can accept applications other than in writing from the person to whom the payment is due in certain circumstances, irrespective of whether the applicant is the surviving spouse or civil partner of the deceased. It also removes the requirement for the survivor to have been living with the deceased. These changes make the process consistent with how the Department is increasingly interacting with its customers, makes the process for claiming easier for the customer and contributes to our aims of making services more compassionate.
- 7.8 Currently, where payment of outstanding benefit following the death of a State Pension or State Pension Credit recipient is due to a person who is not the spouse or civil partner of the deceased, a form is issued in order to verify their identity and meet the legislative requirement for a written application. This process is cumbersome and can cause delays in issuing the payment at a time when that money may be needed, for example to go towards the cost of the funeral or for costs relating to the care of the deceased prior to death.
- 7.9 The amendment allows applications for outstanding State Pension and State Pension Credit in these circumstances to be made without the need for a written application by a person other than the spouse or civil partner (for example a next of kin where there is no surviving spouse or civil partner). This will enable such payments to be made without unnecessary delay at what may be a distressing time for the person notifying a death and applying for the payment.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 Informal consolidated text of instruments is available to the public free of charge via The National Archives' website legislation.gov.uk.

10. Consultation outcome

- 10.1 The regulations have been considered by the Social Security Advisory Committee who approved the regulations without requiring a formal referral.

11. Guidance

- 11.1 Appropriate amendments to the current published guidance and to the operational guidance issued to staff in the Department for Work and Pensions will be issued before these changes come into force.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because there is little or no direct impact on business.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The Department for Work and Pensions routinely reviews and monitors the effect of policy changes. There are, however, no specific plans to evaluate the impact of these regulations.

15. Contact

- 15.1 The Social Fund Policy Team at the Department for Work and Pensions (email: socialfundstrategy.singlepointofcontact@dwp.gsi.gov.uk. Tel No 020 7340 4039) can answer any queries relating to Social Fund changes within this statutory instrument.
- 15.2 For any queries relating to Maternity Allowance changes within this statutory instrument contact smpand.mapolicy@dwp.gsi.gov.uk Tel No: 0113 232 7506.
- 15.3 For any queries relating State Pension and State Pension Credit within this statutory instrument contact paul.needham@dwp.gov.uk Tel No: 0113 232 4949.
- 15.4 Helen Walker, Deputy Director for Social Fund Policy area, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.
- 15.5 Baroness Stedman-Scott Parliamentary Under-Secretary of State for Work and Pensions (Lords) at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.