

1987 No. 150

SOCIAL SECURITY

The Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987

Made 30th March 1987

Coming into operation 6th April 1987

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 33(2)(a) and 84(1) of the Social Security (Northern Ireland) Order 1986(a) and, as regards the consequential amendments in Part VI, by Articles 5 and 6 of the Supplementary Benefits (Northern Ireland) Order 1977(b), and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987 and shall come into operation on 6th April 1987.

Interpretation

2.—(1) In these regulations—

“child” means a person under the age of 16;

“claimant” means a person claiming a social fund payment in respect of maternity or funeral expenses;

“confinement” means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead;

“family” means—

- (a) a married or unmarried couple and any children who are members of the same household and for whom one of the couple is, or both are, responsible;
- (b) a person who is not a member of a married or unmarried couple and any children who are members of the same household and for whom that person is responsible;
- (c) persons who are members of the same household and between whom there is a polygamous relationship and any children who are also members of the same household and for whom a member of the polygamous relationship is responsible;

(a) S.I. 1986/1888 (N.I. 18); Article 33(2)(a) was amended by Article 3 of the Social Fund (Maternity and Funeral Expenses) (Northern Ireland) Order 1987 (S.I. 1987/464 (N.I. 8))

(b) S.I. 1977/2156 (N.I. 27); provisions of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by Article 7 of, and Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), are set out in Part II of that Schedule

“family income supplement” means a supplement under section 1 of the Family Income Supplements Act (Northern Ireland) 1971(a);

“funeral” means a burial or a cremation;

“funeral payment” is to be construed in accordance with regulation 6;

“housing benefit” means a rate rebate, rent rebate or rent allowance payable under a scheme made under Article 3 of the Housing Benefits (Northern Ireland) Order 1983(b);

“married couple” means a man and a woman who are married to each other and are members of the same household;

“maternity payment” is to be construed in accordance with regulation 4;

“occupational pension scheme” has the same meaning as in Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975(c);

“partner” means one of a married or unmarried couple or a member of a polygamous relationship;

“person affected by a trade dispute” means a person—

(a) to whom Article 12 of the Supplementary Benefits (Northern Ireland) Order 1977 applies; or

(b) to whom that Article would apply if a claim to supplementary benefit were made by or in respect of him;

“responsible member” is to be construed in accordance with regulation 6(1)(b);

“single payment of supplementary benefit” means a single payment to meet an exceptional need under Article 5 of the Supplementary Benefits (Northern Ireland) Order 1977;

“supplementary benefit” means a pension or allowance under Article 3 of the Supplementary Benefits (Northern Ireland) Order 1977, or under Article 6 of that Order, but only in the cases specified in regulations 11, 12, 16, 17 and 19 to 22 of the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1981(d);

“unmarried couple” means a man and a woman who are not married to each other but are living together as husband and wife.

(2) For the purposes of these regulations, two persons who are a married or unmarried couple shall be treated as being or, as the case may be, as having ceased to be members of the same household in the circumstances set out in regulation 2(2) and (3) of the Supplementary Benefit (Aggregation) Regulations (Northern Ireland) 1981(e).

(3) For the purposes of these regulations, a person shall be treated as a member of a polygamous relationship where, but for the fact that the relationship includes more than 2 persons, he would be one of a married or unmarried couple.

(a) 1971 c. 8 (N.I.)

(b) S.I. 1983/1121 (N.I. 14)

(c) S.I. 1975/1503 (N.I. 15)

(d) S.R. 1981 No. 372; the relevant amending regulations are S.R. 1982 No. 240, S.R. 1983 Nos. 191 and 290 and S.R. 1984 No. 266

(e) S.R. 1981 No. 373; the relevant amending regulations are S.R. 1984 No. 266

Provision against double payment

3.—(1) Subject to paragraph (2), no maternity payment shall be made under these regulations if such a payment has already been made in respect of the child in question.

(2) Notwithstanding that a maternity payment has been made to the natural mother of a child or to one of her family, a second such payment may, subject to the following provisions, be made to the adoptive parents of the child in question.

(3) No funeral payment shall be made under these regulations if such a payment has already been made in respect of the funeral expenses in question.

PART II

PAYMENTS FOR MATERNITY EXPENSES

Entitlement to a maternity payment

4.—(1) Subject to regulation 5 and Parts IV and V, a payment to meet maternity expenses (referred to in these regulations as a “maternity payment”) shall be made only where—

- (a) the claimant or the claimant’s partner is, in respect of the period during which the claim for a maternity payment is made, in receipt of either supplementary benefit or family income supplement; and
 - (b) either—
 - (i) the claimant or, if the claimant is a member of a family, one of the family is pregnant or has given birth to a child, or
 - (ii) the claimant or the claimant’s partner or both of them have adopted a child not exceeding the age of twelve months at the date of the claim; and
 - (c) the claim is made within the period specified for such a claim in regulation 7 of the Social Fund (Maternity and Funeral Expenses) (Claims and Payments) Regulations (Northern Ireland) 1987(a).
- (2) Subject to Part IV, the amount of a maternity payment shall be—
- (a) where the claim is made before the confinement, £80 in respect of each expected child;
 - (b) where the claim is made after the confinement, £80 in respect of each child, including any child who is stillborn;
 - (c) where the claim is made after a child has been adopted, £80 in respect of that child.

Persons affected by a trade dispute

5. Where the claimant or the claimant’s partner is a person affected by a trade dispute, a maternity payment shall be made only if—

- (a) in the case where the claimant or the claimant’s partner is in receipt of supplementary benefit, the trade dispute has, at the date of the claim for that payment, continued for not less than 6 weeks; or

- (b) in the case where the claimant or the claimant's partner is in receipt of family income supplement, the claim in respect of which family income supplement was awarded was made before the beginning of the trade dispute.

PART III

PAYMENTS FOR FUNERAL EXPENSES

Entitlement to a funeral payment

6.—(1) Subject to regulation 7 and Parts IV and V, a social fund payment to meet funeral expenses (referred to in these regulations as a “funeral payment”) shall be made only where—

- (a) the claimant or his partner is, in respect of the period during which the claim for a funeral payment is made, in receipt of supplementary benefit, family income supplement or housing benefit; and
- (b) the claimant or, if he is a member of a family, one of his family takes responsibility for the costs of a funeral (in these regulations referred to as the “responsible member”); and
- (c) the funeral takes place in the United Kingdom; and
- (d) the claim is made within the period specified for such a claim in regulation 7 of the Social Fund (Maternity and Funeral Expenses) (Claims and Payments) Regulations (Northern Ireland) 1987.

(2) Subject to regulation 7 and Part IV, the amount of a funeral payment shall be an amount sufficient to meet any of the following essential expenses which fall to be met by the responsible member—

- (a) the cost of any necessary documentation;
- (b) the cost of an ordinary coffin;
- (c) the cost of transport for the coffin and bearers and one additional car;
- (d) the reasonable cost of flowers from the responsible member;
- (e) undertaker's fees and gratuities, chaplain's, organist's and cemetery or crematorium fees for a simple funeral;
- (f) the cost of any additional expenses arising from a requirement of the religious faith of the deceased, not in excess of £75;
- (g) where the death occurred away from the deceased's home, the costs of transporting the body within the United Kingdom to that home or to the undertaker's premises or to a chapel of rest; and
- (h) the reasonable travelling costs of one return journey within the United Kingdom by the responsible member in connection with either the arrangement of or attendance at the funeral.

Deductions from an award of a funeral payment

7. There shall be deducted from the amount of any award which would, but for this regulation, be made under regulation 6 the following amounts—

- (a) the amount of any assets of the deceased which are available to the responsible member (on application or otherwise) or any other member of his family without probate or letters of administration having been granted;

- (b) the amount of any lump sum due to the responsible member or any other member of his family on the death of the deceased by virtue of any insurance policy, occupational pension scheme or burial club or any analogous arrangement;
- (c) the amount of any contribution which has been received by the responsible member or any other member of his family from a charity or a relative of his or of the deceased, but only to the extent that that amount or, if more than one contribution has been received, the aggregate of such amounts exceeds the cost of any funeral expenses other than those specified in regulation 6(2);
- (d) the amount of any funeral grant, made out of public funds, in respect of the death of a person who was entitled to a war disablement pension(a).

PART IV

EFFECT OF CAPITAL

Effect of capital

8.—(1) Where a claimant has any capital which is in excess of £500, any maternity payment or funeral payment which would, but for this regulation, be payable shall be payable only to the extent that the amount of the payment would otherwise exceed the amount by which that capital exceeds that £500.

(2) In calculating the amount of the claimant's capital for the purposes of paragraph (1)—

- (a) any capital possessed by any member of the claimant's family or any other person whose resources are or would be treated as those of the claimant by virtue of the provisions of paragraph 3(2) of Schedule 1 to the Supplementary Benefits (Northern Ireland) Order 1977 (aggregation of dependants' requirements and resources) shall be treated as that of the claimant;
- (b) any capital specified in regulation 6(1) of the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984(b) shall be disregarded; and
- (c) the amount of any payment out of capital, other than capital disregarded under sub-paragraph (b), which has already been made towards the funeral expenses (whether the expenses are within the scope of regulation 6(2) or not) shall be added back to that capital as if the payment had not been made.

Assessment of capital

9. The amount of any capital which is taken into account for the purposes of regulation 8 shall be calculated and assessed as if it were capital to which regulation 5 of the Supplementary Benefit (Resources) Regulations (Northern Ireland) 1984 applied.

(a) See Article 2(2) of the Social Security (Northern Ireland) Order 1986 for a definition of "war disablement pension".

(b) S.R. 1984 No. 54; the relevant amending regulations are S.R. 1984 Nos. 174 and 278 and S.R. 1985 No. 206

PART V

TRANSITIONAL PROVISIONS

*Interpretation of Parts V and VI***10.** In this Part and Part VI—

“the Single Payments Regulations” means the Supplementary Benefit (Single Payments) Regulations (Northern Ireland) 1981(a);

“the Trade Disputes Regulations” means the Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations (Northern Ireland) 1980(b);

“the Urgent Cases Regulations” means the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1981(c).

Transitional arrangements — maternity payments

11.—(1) Subject to paragraph (2), no maternity payment shall be made in the case where the confinement or adoption occurred before 6th April 1987.

(2) Subject to paragraph (3), a maternity payment may be made, so long as the claimant satisfies the conditions of Part II, in respect of a confinement or adoption which occurred on or after 9th March 1987 but only if the claimant or his partner was or would have been, had a claim been made, entitled to supplementary benefit for any period including 9th March 1987 or beginning after that date which falls before the coming into operation of these regulations.

(3) No maternity payment shall be made in a case where, in respect of the same confinement or adoption, the claimant or his partner has received or is entitled to a single payment of supplementary benefit by virtue of regulation 7 of the Single Payments Regulations or an additional requirement was applicable by virtue of regulation 6 of the Trade Disputes Regulations.

(4) The amount of a maternity payment shall be reduced by the amount of an award, in respect of the same confinement, of a maternity grant under section 21 of the Social Security (Northern Ireland) Act 1975(d).

Transitional arrangements — funeral payments

12.—(1) Subject to paragraph (2), no funeral payment shall be made where the deceased died before 6th April 1987.

(2) Subject to paragraph (3), a funeral payment may be made, so long as the claimant satisfies the conditions of regulation 6, where the deceased died on or after 9th March 1987 but only if the claimant or his partner was or would have been, had a claim been made, entitled to supplementary benefit for any period including 9th March 1987 or beginning after that date which falls before the coming into operation of these regulations.

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- (a) S.R. 1981 No. 369; the relevant amending regulations are S.R. 1982 No. 240, S.R. 1983 No. 191, S.R. 1984 No. 266 and S.R. 1986 No. 262
 (b) S.R. 1980 No. 417; the relevant amending regulations are S.R. 1981 No. 215, S.R. 1985 No. 176 and S.R. 1986 No. 262
 (c) S.R. 1981 No. 372; the relevant amending regulations are S.R. 1986 No. 262
 (d) 1975 c. 15; section 21 is repealed with effect from 6th April 1987 by Schedule 10 to the Social Security (Northern Ireland) Order 1986

(3) No funeral payment shall be made in the case where, in respect of the same funeral, the claimant or his partner has received or is entitled to a single payment of supplementary benefit by virtue of regulation 8 of the Single Payments Regulations or an additional requirement was applicable by virtue of regulation 6A of the Trade Disputes Regulations.

(4) The amount of a funeral payment shall be reduced by the amount of an award, in respect of the same funeral, of a death grant under section 32 of the Social Security (Northern Ireland) Act 1975(a) unless that grant has been spent on any item in respect of which a funeral payment would otherwise have been made.

PART VI

CONSEQUENTIAL AMENDMENTS

Amendment of the Single Payments Regulations

13.—(1) The Single Payments Regulations shall be amended in accordance with paragraphs (2) and (3).

(2) Regulations 7 and 8 shall be revoked.

(3) In regulation 22(1) (travelling expenses) sub-paragraph (h) shall be omitted.

Amendment of the Trade Disputes Regulations

14. Regulations 6 and 6A of the Trade Disputes Regulations shall be revoked.

Amendment of the Urgent Cases Regulations

15. In Schedule 1 to the Urgent Cases Regulations, paragraph 8 shall be omitted.

Sealed with the Official Seal of the Department of Health and Social Services on 30th March 1987.

(L.S.)

A. N. Burns

Assistant Secretary

(a) 1975 c. 15; section 32 is repealed with effect from 6th April 1987 by Schedule 10 to the Social Security (Northern Ireland) Order 1986

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make provisions under Article 33(2)(a) of the Social Security (Northern Ireland) Order 1986 ("the Order"), as amended by Article 3 of the Social Fund (Maternity and Funeral Expenses) (Northern Ireland) Order 1987 for payments (whether in respect of prescribed amounts or otherwise) in prescribed circumstances to be made out of the social fund established by the Order to meet maternity expenses and funeral expenses (referred to in the regulations as "maternity payments" and "funeral payments" respectively). Article 33(2)(a) is brought into operation on 6th April 1987 by virtue of Schedule 2 to the Social Security (1986 Order) (Commencement No. 3) Order (Northern Ireland) 1987.

In Part I regulations 1 and 2 are formal and contain interpretation provisions. Regulation 3 provides that two payments shall not be made in respect of the same expenses.

Part II deals with maternity payments. Regulation 4 prescribes the circumstances in which such payments are to be made and the appropriate amount. Regulation 5 sets out special rules on entitlement which apply to persons affected by a trade dispute.

Part III makes provision for funeral payments. Regulation 6 sets out the circumstances in which funeral payments are to be made. Regulation 7 prescribes certain deductions from such a payment.

Regulations 8 and 9 (Part IV) make provision as to the effect of any capital possessed by the claimant or his family on a social fund payment and how such capital is to be calculated.

Parts V and VI contain transitional provisions and consequential amendments to the Supplementary Benefit (Single Payments) Regulations (Northern Ireland) 1981, the Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations (Northern Ireland) 1980 and the Supplementary Benefit (Urgent Cases) Regulations (Northern Ireland) 1981.

The regulations correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.