
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 506

**The Social Fund Maternity and Funeral Expenses
(General) Regulations (Northern Ireland) 2005**

**PART I
GENERAL**

Citation and commencement

1. These regulations may be cited as the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 and shall come into operation on 5th December 2005.

Interpretation

2.—(1) In these Regulations —

“the Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“the Income Support Regulations” means the Income Support (General) Regulations (Northern Ireland) 1987(1);

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations (Northern Ireland) 1996(2);

“absent parent” means a parent of a child who has died where—

- (a) that parent was not living in the same household with the child at the date of that child’s death; and
- (b) that child had his home, at the date of death, with a person who was responsible for that child for the purposes of Part IX of the Act;

“child” means a person under the age of 16 or a young person within the meaning of regulation 14 of the Income Support Regulations(3) or, as the case may be, of regulation 76 of the Jobseeker’s Allowance Regulations(4);

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002(5);

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

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-son-in-law, step-daughter, step-daughter-in-law, brother, brother-in-law, sister or sister-in-law;

(1) S.R. 1987 No. 459

(2) S.R. 1996 No. 198

(3) Regulation 14 was amended by regulation 6 of S.R. 1990 No. 131 and paragraph 2 of Schedule 1 to S.R. 2003 No. 1

(4) Regulation 76 was amended by paragraph 2 of Schedule 3 to S.R. 2003 No. 1

(5) 2002 c. 21

“confinement” means labour resulting in the issue of a living child, or labour after 24 weeks of pregnancy resulting in the issue of a child whether alive or dead;

“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners, and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;

“family” means—

- (a) a couple and any children who are members of the same household and for whom at least one of the couple is responsible;
- (b) a person who is not a member of a couple and any children who are members of the same household and for whom that person is responsible;
- (c) persons who are members of a polygamous marriage who are members of the same household and any children who are also members of the same household and for whom a member of the polygamous marriage is responsible;

“family element” means—

- (a) in a case where any child in respect of whom child tax credit is payable is under the age of one year, the amount specified in regulation 7(3)(a) of the Child Tax Credit Regulations 2002⁽⁶⁾; or
- (b) in any other case, the amount specified in regulation 7(3)(b) of those Regulations, but subject to calculations of that amount made in accordance with the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002⁽⁷⁾;

“funeral” means a burial or a cremation;

“funeral payment” has the meaning given in regulation 7(1)(a);

“health professional” means—

- (a) a registered medical practitioner; or
- (b) a registered nurse or registered midwife;

“immediate family member” means a parent, son or daughter;

“income-based jobseeker’s allowance” has the same meaning as it has in the Jobseekers (Northern Ireland) Order 1995 by virtue of Article 2(2) of that Order⁽⁸⁾;

“occupational pension scheme” has the same meaning as in section 1 of the Pension Schemes (Northern Ireland) Act 1993⁽⁹⁾;

“partner” means where a person—

- (a) is a member of couple, the other member of that couple;

(6) S.I. 2002/2007; words inserted by regulation 6(6) of S.R. 2003 No. 338

(7) S.I. 2002/2008.

(8) S.I. 1995/2705 (N.I. 15). Article 2(2) was amended by Article 56 of, and paragraph 2 of Schedule 7 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 S.I. 1999/3147 (N.I. 11)

(9) 1993 c. 49

(b) is married polygamously to two or more members of his household, any such member;
“person affected by a trade dispute” means a person—

(a) to whom section 125 of the Act(10) applies; or

(b) to whom that section would apply if a claim for income support were made by or in respect of him;

“prescribed time for claiming” means the appropriate period during which a Sure Start Maternity Grant or, as the case may be, a funeral payment, may be claimed pursuant to regulation 19(1) of, and Schedule 4 to, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(11);

“responsible person” has the same meaning given in regulation 7(1)(b);

“still-born child” has the same meaning as the definition of “still-birth” in the Births and Deaths Registration (Northern Ireland) Order 1976(12);

“Sure Start Maternity Grant” is to be construed in accordance with regulation 5;

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act 2002.

(2) For the purposes of Part III of these Regulations, persons shall be treated as members of the same household where—

(a) they are married to each other, or in a civil partnership with each other, and are living in the same care establishment; or

(b) they were partners immediately before at least one of them moved permanently into such an establishment,

and at least one of them is resident in a care establishment as at the date of death of the person in respect of whom a funeral payment is claimed.

(3) In paragraph (2), “care establishment” means—

(a) a residential care home;

(b) a nursing home;

(c) an Abbeyfield Home; or

(d) an independent hospital,

as defined in regulation 2(1)(13) of the Income Support Regulations.

(4) For the purposes of these Regulations—

(a) persons are to be treated as not being members of the same household in the circumstances set out in regulation 16(2) and (3)(a), (b) and (d) of the Income Support Regulations(14) or, as the case may be, in regulation 78(2) and (3)(a) to (c) of the Jobseeker’s Allowance Regulations(15);

(10) Section 125 was amended by paragraph 14 of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995, paragraph 31 of Schedule 1 and Schedule 2 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 S.I. 1994/1898 (N.I. 12) and Article 18 of S.R. 2005 No. 82

(11) S.R. 1987 No. 465; regulation 19 was substituted by regulation 3(7) of S.R. 1997 No. 156

(12) S.I. 1976/1041 (N.I. 14) as amended by Article 3 of the Still-Birth (Definition) (Northern Ireland) Order 1992 (S.I. 1992/1310 (N.I. 10))

(13) The definitions of “Abbeyfield Home” and “independent hospital” were inserted by, and the definitions of “nursing home” and “residential care home” were substituted by, paragraph 1 of Schedule 1 to S.R. 2005 No. 458

(14) Regulation 16(2) was substituted by regulation 4(6)(b) of S.R. 1993 No. 373 and regulation 16(3) was amended by paragraph (2) of Schedule 1 to S.R. 1993 No. 149 and by regulation 5(5) of S.R. 1996 No. 405

(15) Regulation 78(2) was amended by paragraph 33(b) of Schedule 2 to S.R. 2000 No. 350; regulation 78(3) was amended by paragraph 33(c) of Schedule 2 to S.R. 2000 No. 350; regulation 78(3)(b) was substituted by regulation 18 of S.R. 1996 No. 358; and regulation 78(3)(c) was amended by paragraph 33(c) of Schedule 2 to S.R. 2000 No. 350

(b) a person shall be treated as a member of a polygamous marriage where, during the subsistence of that marriage, a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy.

(5) The Interpretation Act (Northern Ireland) 1954⁽¹⁶⁾ shall apply to these Regulations as it applies to an Act of the Assembly.

Revocation

3. The Regulations specified in the Schedule are revoked to the extent specified there.

Provision against double payment

4.—(1) Subject to paragraph (2), no Sure Start Maternity Grant 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 Sure Start Maternity Grant 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 of these Regulations, be made to the adoptive parents of the child in question or to persons who have been granted an order in respect of the child in question pursuant to section 30 of the Human Fertilisation and Embryology Act 1990⁽¹⁷⁾ (parental orders in favour of gamete donors).

(3) Subject to paragraph (4), 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 or in respect of any further funeral expenses arising from the death of the same person.

(4) A further funeral payment may be made in respect of any funeral expenses arising from the death of a person in respect of which such a payment has already been made where—

- (a) the decision pursuant to which the funeral payment was awarded has been revised; and
- (b) the further amount of the award as revised, together with the amount of the funeral payment already paid in respect of the death of that person, does not exceed the amount of any funeral payment which may be awarded pursuant to regulation 9.

⁽¹⁶⁾ 1954 c. 33 (N.I.)

⁽¹⁷⁾ 1990 c. 37.