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STATUTORY INSTRUMENTS

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**1996 No. 1443**

**SOCIAL SECURITY**

**The Social Fund Maternity and Funeral Expenses  
(General) Amendment Regulations 1996**

<i>Made</i>	- - - -	<i>4th June 1996</i>
<i>Laid before Parliament</i>		<i>10th June 1996</i>
<i>Coming into force</i>	- -	<i>7th October 1996</i>

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 138(1)(a) and (4) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup> 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<sup>(2)</sup>, hereby 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 1996 and shall come into force on 7th October 1996.

(2) In these Regulations, “the General Regulations” means the Social Fund Maternity and Funeral Expenses (General) Regulations 1987<sup>(3)</sup>.

**Amendment of regulation 3 of the General Regulations**

2.—(1) Regulation 3 of the General Regulations<sup>(4)</sup> (interpretation) shall be amended in accordance with the following paragraphs.

(2) In paragraph (1)—

(a) after the definition of “the Act” there shall be inserted the following definitions—

““the Income Support Regulations” means the Income Support (General) Regulations 1987<sup>(5)</sup>;

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(1) 1992 c. 4; section 138(4) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.  
(2) See section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).  
(3) S.I. 1987/481.  
(4) Regulation 3 was amended by S.I. 1988/36, 1989/379, 1990/580, 1992/2149, 1994/506 and 1995/1229.  
(5) S.I. 1987/1967.

- “the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(6);”;
- (b) in the definition of “child”, for the words “(General) Regulations 1987” there shall be substituted the words “Regulations(7) or, as the case may be, of regulation 76 of the Jobseeker’s Allowance Regulations”;
- (c) after the definition of “funeral payment”, there shall be inserted the following definition—  
 ““income-based jobseeker’s allowance” has the same meaning in these Regulations as it has in the Jobseekers Act 1995(8) by virtue of section 1(4) of that Act.”.
- (3) After paragraph (1), there shall be inserted the following paragraph—  
 “(1A) For the purposes of Part III of these Regulations, persons are to be treated as being members of the same household where such persons were partners and either or both or any or all of those persons are permanently in residential accommodation or a residential care home or a nursing home as defined for the purposes of the Income Support Regulations or, as the case may be, of the Jobseeker’s Allowance Regulations.”.
- (4) In paragraph (2)—  
 (a) after the word “(3)”, there shall be inserted the words “(a) to (d)”;
- (b) for the words “(General) Regulations 1987” there shall be substituted the words “Regulations(9) or, as the case may be, in regulation 78(2) and (3)(a) to (c) of the Jobseeker’s Allowance Regulations”.

#### **Amendment of regulation 5 of the General Regulations**

**3.** In regulation 5(1)(a) of the General Regulations(10) (entitlement to a maternity payment), after the words “income support,”, there shall be inserted the words “income-based jobseeker’s allowance,”.

#### **Amendment of regulation 6 of the General Regulations**

**4.** In regulation 6(a) of the General Regulations(11) (persons affected by a trade dispute), after the words “income support”, there shall be inserted the words “or income-based jobseeker’s allowance”.

#### **Amendment of regulation 7 of the General Regulations**

**5.—(1)** Regulation 7 of the General Regulations(12) (entitlement to a funeral payment) shall be amended in accordance with the following paragraphs.

(2) In paragraph (1)(a)(i), after the words “income support,”, there shall be inserted the words “income-based jobseeker’s allowance,”.

(3) At the beginning of paragraph (1B), there shall be inserted the words “Except in a case where paragraph (1C) applies,”.

(4) After paragraph (1B), there shall be inserted the following paragraph—

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(6) S.I. 1996/207.

(7) Regulation 14 was amended by S.I. 1988/1445 and 1990/547.

(8) 1995 c. 18.

(9) Regulation 16(2) and (3) was amended by S.I. 1992/3147 and 1993/2119.

(10) Regulation 5(1)(a) was substituted by S.I. 1988/36 and amended by S.I. 1991/2742.

(11) Regulation 6(a) was amended by S.I. 1988/36.

(12) Regulation 7 was amended by S.I. 1988/36, 1993/479 and 1995/1229.

“(1C) Paragraph (1B) 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 a child as at the date of death; and
- (b) there is no other close relative (not being a child) to whom any of sub-paragraphs (a) to (c) of paragraph (1B) apply.”

(5) In paragraph (2), after the words “Subject to” there shall be inserted the words “paragraph (6),”.

(6) In paragraph (4)—

(a) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) in the case of a burial—

- (i) the necessary costs of purchasing a new burial plot which is suitable for the deceased, together with an exclusive right of burial in that plot; and
- (ii) the necessary costs of the burial;”;

(b) for head (ii) of sub-paragraph (c), there shall be substituted the following head—

“(ii) the fee payable, or the amount of any donation, to a Minister of religion and for the use of the church or other place of worship, to the extent that—

(aa) such fees or donations relate to an item or service specified in respect of a funeral or burial in the Parochial Fees Order 1995(13) or in any corresponding provision of any order made in exercise of powers conferred by section 1 of the Ecclesiastical Fees Measure 1986(14) as may be in operation as at the date of the funeral; and

(bb) the total amount of such fees or donations does not exceed the appropriate fee specified in any such order;”.

(7) After paragraph (4), there shall be inserted the following paragraphs—

“(5) All references in paragraphs (3) and (4)(c)(vii), (viii) and (ix) to a distance of 50 miles shall be construed as applying to the distance of the combined outward and return journey.

(6) No funeral payment shall be made in respect of items and services specified in regulation 7(3) and (4) which have been provided on the death of the deceased under a pre-paid funeral plan.”.

### **Amendment of regulation 8 of the General Regulations**

**6.** In regulation 8 of the General Regulations(15) (deductions from an award of a funeral payment)—

(a) in paragraph (a), after the word “administration” there shall be inserted the words “or in Scotland, confirmation;”;

(b) after paragraph (d), there shall be added the following paragraph—

“(e) the amount of any sum payable under a pre-paid funeral plan in order to meet the deceased’s funeral expenses where the plan had not been paid for in full prior to the death of the deceased”.

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(13) S.I. 1995/1960.

(14) 1986 No. 2.

(15) Regulation 8(a) was amended by S.I. 1994/506.

### **Amendment of regulation 9 of the General Regulations**

7.—(1) Regulation 9 of the General Regulations(16) (effect of capital) shall be amended in accordance with the following paragraphs.

(2) In paragraph (2)(a), for the words “(General) Regulations 1987” there shall be substituted the words “Regulations(17) or, as the case may be, of regulation 88(4) of the Jobseeker’s Allowance Regulations”.

(3) In paragraph (2)(b)—

- (a) for the words “(General) Regulations 1987” there shall be substituted the words “Regulations or, as the case may be, under the Jobseeker’s Allowance Regulations”;
- (b) after the words “income support”, there shall be inserted the words “or, as the case may be, income-based jobseeker’s allowance”.

(4) In paragraph (3)(c)—

- (a) for the words “regulation 47” there shall be substituted the words “regulation 46(2) or 47”;
- (b) for the words “(General) Regulations 1987” there shall be substituted the words “Regulations or, as the case may be, under regulation 108(2) or 109 of, and Schedule 8 to, the Jobseeker’s Allowance Regulations”.

### **Transitional provision**

8. Regulations 2(3) and (4), 5(3) to (7) and 6 of these Regulations shall not have effect with respect to any claim for a funeral payment made before 7th October 1996.

Signed by authority of the Secretary of State for Social Security.

4th June 1996

*Roger Evans*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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(16) Regulation 9 was amended by S.I. 1989/379, 1990/580 and 1995/1229.

(17) Regulation 23(3) was amended by S.I. 1988/1228.

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## 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 as amended) by:

- providing that income-based jobseeker's allowance is to be a qualifying benefit for the purpose of obtaining a maternity payment or a funeral payment and making consequential amendments (regulations 2(2) and (4)(b), 3, 4, 5(2) and 7);
- treating claimants or partners of claimants who are receiving long term care in residential care or nursing homes as members of the household (regulation 2(3) and (4));
- excluding children and young persons from consideration when determining whether the responsible person is entitled to a funeral payment (regulation 5(3) and (4));
- providing that funeral payments should not be made in respect of items covered by a pre-paid funeral plan (regulation 5(5) and (7)) and that sums received under such a plan should be deducted from funeral payments (regulation 6(b));
- clarifying the allowable costs in respect of a burial and in respect of fees and donations paid to Ministers or for the use of churches and other places of worship (regulation 5(6)) and also clarifying the scope of the references to mileage in the regulations (regulation 5(7));
- including a reference to confirmations of estates obtained in Scotland (regulation 6(a)).

Regulation 8 provides a transitional provision relating to certain provisions in respect of claims for funeral payments made before 7th October 1996.

These Regulations do not impose a charge on business.