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STATUTORY INSTRUMENTS

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**1997 No. 2538**

**SOCIAL SECURITY**

**The Social Fund Maternity and Funeral Expenses  
(General) Amendment Regulations 1997**

*Made* - - - - *23rd October 1997*  
*Laid before Parliament* *27th October 1997*  
*Coming into force* - - *17th November 1997*

The Secretary of State for Social Security, in exercise of the powers conferred on her by sections 138(1)(a) and (4) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(1) and of all other powers enabling her in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(2), 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 1997 and shall come into force on 17th November 1997.

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

**Application of the Regulations**

2. Regulations 3 to 6 of these Regulations shall apply only in respect of claims for a social fund payment to meet funeral expenses which are made, or are treated as made, on or after 17th November 1997.

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

3. For the definition of “absent parent” in regulation 3(1) of the General Regulations(4) (interpretation), there shall be substituted the following definition—

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

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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) The definition of “absent parent” was inserted by S.I. 1997/792.

- (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 Social Security Contributions and Benefits Act 1992;”.

#### **Amendment of regulation 4 of the General Regulations**

- 4.** In regulation 4 of the General Regulations<sup>(5)</sup> (provision against double payment)—
- (a) in paragraph (3)—
    - (i) at the beginning, there shall be inserted the words “Except in a case to which paragraph (4) applies,”;
    - (ii) for the word “other” there shall be substituted the word “further”;
  - (b) after paragraph (3) there shall be added the following paragraph—

“(4) Notwithstanding paragraph (3), a further funeral payment may be made under these Regulations 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 reviewed; and
    - (b) the amount of the award as revised on that review, 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 7A(2).”.

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

- 5.—(1)** Regulation 7 of the General Regulations<sup>(6)</sup> (entitlement to a funeral payment) shall be amended in accordance with the following paragraphs.
- (2) For sub-paragraph (b) of paragraph (1), there shall be substituted the following sub-paragraph—
- “(b) the funeral takes place—
- (i) in a case where the responsible person is a person to whom paragraph (1A) applies, in an EEA State;
  - (ii) in any other case, in the United Kingdom,
- and for the purposes of this sub-paragraph, “EEA State” means a State which is a contracting party to the Agreement on the European Economic Area<sup>(7)</sup> signed at Oporto on 2nd May 1992 as adjusted by the Protocol<sup>(8)</sup> signed at Brussels on 17th March 1993;”.
- (3) In paragraph (1)(e), for heads (ii), (iii) and (iv) there shall be substituted the following heads—
- “(ii) in a case where the deceased was—
- (aa) a child and there is no absent parent or there is an absent parent who, or whose partner, had an award of a benefit to which sub-paragraph (a) above refers current as at the date of death, the responsible person was the person or the partner of the

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<sup>(5)</sup> Regulation 4(3) was amended by S.I. 1997/792.

<sup>(6)</sup> Regulation 7 was substituted by S.I. 1997/792.

<sup>(7)</sup> O.J. No. L1, 3.1.94, p. 3.

<sup>(8)</sup> O.J. No. L1, 3.1.94, p. 572.

- person responsible for that child for the purposes of Part IX of the Social Security Contributions and Benefits Act 1992 as at the date of death; or
- (bb) a still-born child, the responsible person was a parent of that still-born child or the partner of a parent of that still-born child as at the date when the child was still-born; or
- (iii) in a case where the deceased had no partner and (ii) above does not apply, the responsible person was, subject to paragraphs (3) and (4), an immediate family member of the deceased and it is reasonable for the responsible person to accept responsibility for those expenses; or
- (iv) in a case where the deceased had no partner and (ii) and (iii) above do not apply, the responsible person was, subject to paragraphs (3) and (4), either—
- (aa) a close relative of the deceased; or
- (bb) a close friend of the deceased,
- and it is reasonable for the responsible person to accept responsibility for those expenses.”.
- (4) After paragraph (1), there shall be inserted the following paragraph—
- “(1A) This paragraph applies to a person who is—
- (a) a worker for the purposes of Council Regulation (EEC) No. 1612/68(9) or (EEC) No. 1251/70(10);
- (b) a member of the family of a worker for the purposes of Council Regulation (EEC) No. 1612/68;
- (c) in the case of a worker who has died, a member of the family of that worker for the purposes of Council Regulation (EEC) No. 1251/70; or
- (d) a person with a right to reside in the United Kingdom pursuant to Council Directive No. 68/360/EEC(11) or No. 73/148/EEC(12).”.
- (5) In paragraph (3), for the words from the beginning to “where—” there shall be substituted the words “Subject to paragraph (4), the responsible person shall not be entitled to a funeral payment where he is an immediate family member, a close relative or a close friend of the deceased and—”.

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

**6.—(1)** Regulation 7A of the General Regulations(13) (amount of funeral payment) shall be amended in accordance with the following paragraphs.

(2) In paragraph (2), for sub-paragraphs (e) and (f) there shall be substituted the following sub-paragraphs—

- “(e) where transport is provided by a vehicle for the coffin and bearers and by one additional vehicle, from the funeral director’s premises or the place of rest to the funeral and—
- (i) the distance travelled, in the case of a funeral which consists of a burial where no costs have been incurred under sub-paragraph (a)(i) above, exceeds 50 miles; or
- (ii) the distance travelled, in the case of any other funeral, necessarily exceeds 50 miles,
- subject to paragraph (4A), the reasonable cost of the transport provided, other than the cost in respect of the first 50 miles of the distance travelled;

(9) O.J. No. L257, 19.10.68, p. 2.

(10) O.J. No. L142, 1.7.70, p. 24.

(11) O.J. No. L257, 18.10.68, p. 13.

(12) O.J. No. L172, 28.6.73, p. 14.

(13) Regulation 7A was inserted by S.I. 1997/792.

- (f) subject to paragraph (4B), the necessary cost of one return journey for the responsible person, either for the purpose of making arrangements for, or for attendance at, the funeral;”.
- (3) For paragraph (3) there shall be substituted the following paragraph—
- “(3) All references in paragraph (2)(d) and (e) to 50 miles shall be construed as applying to—
- (a) in a case to which paragraph (2)(d) applies, the combined distance from the funeral director’s premises or the deceased’s place of rest to the place of death and of the return journey;
  - (b) in a case to which paragraph (2)(e) applies, the combined distance from the funeral director’s premises or the deceased’s place of rest to the funeral and of the return journey.”.
- (4) After paragraph (4), there shall be inserted the following paragraphs—
- “(4A) Costs shall only be met pursuant to head (i) of sub-paragraph (e) of paragraph (2) to the extent that the cost incurred under that head, together with the cost incurred under paragraph (2)(a)(ii), does not exceed the costs which would have been incurred under paragraph (2)(a)(i) and (ii) and, where appropriate, (e)(ii) if it had been necessary to purchase a new burial plot for the deceased with an exclusive right of burial in that plot.
- (4B) Costs shall only be met pursuant to sub-paragraph (f) of paragraph (2) to the extent that those costs do not exceed the costs which would have been incurred in respect of a return journey from the home of the responsible person to the location where the necessary costs of the burial or, as the case may be, cremation, would have been incurred pursuant to paragraph (2)(a) or, as the case may be, (b).”.

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

23rd October 1997

*John Y. Denham*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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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) (“the General Regulations”).

In particular, these Regulations amend the General Regulations by—

- substituting a new definition of “absent parent” which applies only to the parents of children and not to the parents of still-born children (regulation 3);
- allowing a further funeral payment to be awarded in certain circumstances, notwithstanding the fact that a funeral payment has already been awarded in respect of the death of the same person (regulation 4);
- providing that funeral payments may be awarded to certain persons where the funeral takes place either in the United Kingdom or elsewhere within the European Economic Area (regulation 5(2) and (4));
- clarifying the position as to when funeral payments may be awarded in respect of children and still-born children and where the responsible person is an immediate family member of the deceased (regulation 5(3) and (5));
- ensuring that a funeral payment may only be awarded to the extent that the total cost of burial in an existing plot together with transportation costs does not exceed the amount which would have been awarded in respect of a burial in a new plot (regulation 6(2) and (4));
- providing that funeral payments in respect of expenses of journeys for arranging or attending a funeral shall only be awarded in so far as such expenses are necessary (regulation 6(2) and (4));
- clarifying the references in regulation 7A of the General Regulations to a distance of 50 miles in the context of ascertaining which costs are allowable when awarding a funeral payment (regulation 6(3)).

Regulation 2 provides that these Regulations shall apply only to claims for funeral payments made, or treated as made, on or after 17th November 1997.

These Regulations do not impose a charge on business.