

2010 No. 2760

SOCIAL SECURITY

The Social Fund Maternity Grant Amendment Regulations 2010

<i>Made</i> - - - -	<i>15th November 2010</i>
<i>Laid before Parliament</i>	<i>22nd November 2010</i>
<i>Coming into force</i> - -	<i>13th December 2010</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred upon him by sections 138(1)(a) and (4) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 5(1)(a), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(b).

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it(c).

Citation and commencement

1. These Regulations may be cited as the Social Fund Maternity Grant Amendment Regulations 2010 and shall come into force on 13th December 2010.

Amendment of the Social Fund Maternity and Funeral Expenses (General) Regulations 2005

2.—(1) The Social Fund Maternity and Funeral Expenses (General) Regulations 2005(d) are amended as follows.

(2) In regulation 3(1)(interpretation)—

(a) in the definition of “confinement”, for “issue” in both places substitute “birth”;

(b) insert in the appropriate places the following definitions—

““adoption agency” has the meaning given in section 2 of the Adoption and Children Act 2002(e);”;

““adoption order” means an order made under section 46 of the Adoption and Children Act 2002;”;

““guardian” means a person appointed as a guardian or special guardian under section 5 or 14A of the Children Act 1989(f);”;

(a) 1992 c.4. Section 138(4) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”. Amendments not relevant to these Regulations have been made to section 175(1) and (4).
(b) 1992 c.5. Section 191 is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”. Amendments not relevant to these Regulations have been made to sections 5 and 189(1), (4) and (5).
(c) See sections 172 and 173(1)(b) of the Social Security Administration Act 1992.
(d) S.I. 2005/3061.
(e) 2002 c.38.
(f) 1989 c.41. Section 14A was inserted by section 115 of the Adoption and Children Act 2002.

““parental order” means an order made under section 30 of the Human Fertilisation and Embryology Act 1990(a) or section 54 of the Human Fertilisation and Embryology Act 2008(b);”;

““placed for adoption” has the meaning given in section 18 of the Adoption and Children Act 2002;”;

““qualifying order” has the meaning given in regulation 3A(6);”;

““residence order” means a residence order as defined in section 8, and made under section 10, of the Children Act 1989;”.

(3) After regulation 3(1) insert—

“(1A) References in these Regulations to—

(a) section 5, 8, 10 or 14A of the Children Act 1989,

(b) section 2, 18, 46 or 66 of the Adoption and Children Act 2002,

are to be construed as including a reference to a provision (if any) in legislation which has equivalent effect in Scotland, Northern Ireland, the Channel Islands or the Isle of Man.”.

(4) For regulation 4(c) (provision against double payment) substitute—

“Provision against double payment: Sure Start Maternity Grants

3A.—(1) In this regulation—

(a) “C” is the child in respect of whom a Sure Start Maternity Grant has been claimed;

(b) “first grant” is a first Sure Start Maternity Grant in respect of C;

(c) “second grant” is a second Sure Start Maternity Grant in respect of C.

(2) Subject to paragraph (3), a second grant may not be awarded if a first grant has been awarded.

(3) A second grant may be awarded to a person (“P”) if the following conditions are satisfied.

(4) The first condition is that P—

(a) alone, or together with another person, has been granted a qualifying order; or

(b) falls within regulation 5(3)(b), (d), (e) or (f).

(5) The second condition is that P—

(a) has not already received a first grant; or

(b) was not, at the time a first grant was claimed, a member of the family of a person to whom a first grant has been paid.

(6) A qualifying order is one of the following types of order—

(a) an adoption order;

(b) a parental order;

(c) a residence order.

Provision against double payment: funeral payments

4.—(1) Subject to paragraph (2), no funeral payment shall be made under these Regulations if such a payment has already been made in respect of any funeral expenses arising from the death of the same person.

(a) 1990 c. 37. Section 30 has been repealed by the Human Fertilisation and Embryology Act 2008 from 6 April 2010, subject to transitional provisions.

(b) 2008 c. 22.

(c) Relevant amending instrument is S.I. 2010/986.

(2) 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.”.

(5) For regulation 5(a) (entitlement) substitute—

“Entitlement

5.—(1) Subject to regulation 6, a payment of £500 to meet maternity expenses (referred to in these Regulations as a “Sure Start Maternity Grant”) shall be made in respect of a child or still-born child where the following conditions are satisfied.

(2) The first condition is that the claimant or the claimant’s partner has, in respect of the date of the claim for a Sure Start Maternity Grant, been awarded—

- (a) income support;
- (b) state pension credit;
- (c) an income-based jobseeker’s allowance;
- (d) working tax credit where the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(b) is included in the award;
- (e) child tax credit payable at a rate higher than the family element; or
- (f) an income-related employment and support allowance.

(3) The second condition is that—

- (a) 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 a still-born child;
- (b) the claimant is the parent (but not the mother) of a child not exceeding the age of twelve months at the date of the claim and is responsible for the child and the child’s parents are not partners at the date of the claim;
- (c) the claimant or the claimant’s partner—
 - (i) has been granted a qualifying order in respect of a child who does not exceed the age of twelve months at the date of the claim, and
 - (ii) is responsible for the child;
- (d) the claimant or the claimant’s partner—
 - (i) has been appointed the guardian of a child who does not exceed the age of twelve months at the date of the claim, and
 - (ii) is responsible for the child;
- (e) a child who does not exceed the age of twelve months at the date of the claim has been placed for adoption with the claimant or the claimant’s partner by an adoption agency and the claimant or the claimant’s partner is responsible for the child; or
- (f) the claimant or the claimant’s partner has adopted a child who does not exceed the age of twelve months at the date of the claim and that adoption falls within section 66(1)(c) to (e) of the Adoption and Children Act 2002 (meaning of adoption).

(a) Relevant amending instruments are S.I. 2008/1554 and 2010/986.
(b) S.I. 2002/2005.

(4) The third condition is that the claimant or the claimant's partner has received advice from a health professional—

- (a) on health and welfare matters relating to the child (but this requirement does not apply where the claim is made after the birth of a still-born child); and
- (b) where the claim is made before the child is born, on health and welfare matters relating to maternal health.

(5) The fourth condition is that the claim is made within the prescribed time for claiming a Sure Start Maternity Grant.”.

Amendment of the Social Security (Claims and Payments) Regulations 1987

3.—(1) Schedule 4 to the Social Security (Claims and Payments) Regulations 1987(a) (prescribed times for claiming benefit) is amended as follows.

(2) For the entry in column (2) of paragraph 8, substitute the following entry—

- “(a) In a case where regulation 5(3)(a) of the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 applies (“the 2005 Regulations”), the period beginning 11 weeks before the first day of the expected week of confinement and ending 3 months after the actual date of confinement.
- (b) In a case where regulation 5(3)(b) of the 2005 Regulations applies, the period beginning with the date of confinement and ending 3 months after that date.
- (c) In a case where regulation 5(3)(c) of the 2005 Regulations applies, the period beginning with the date on which an order referred to in that sub-paragraph is made and ending 3 months after that date.
- (d) In a case where regulation 5(3)(d) of the 2005 Regulations applies, the period beginning with the date on which the guardianship takes effect and ending 3 months after that date.
- (e) In a case where regulation 5(3)(e) of the 2005 Regulations applies, the period beginning with the date on which the child is placed with the claimant or the claimant's partner for adoption and ending 3 months after that date.
- (f) In a case where regulation 5(3)(f) of the 2005 Regulations applies, the period beginning with the date on which the adoption—
 - (i) takes effect in respect of an adoption mentioned in section 66(1)(c) or (d), or
 - (ii) is recognised under section 66(1)(e),of the Adoption and Children Act 2002, and ending 3 months after that date.”.

(3) In the definition of “actual date of confinement”, for “issue”, both times it occurs, substitute “birth”.

(4) In the definition of “confinement”—

- (a) for “28” substitute “24”; and
- (b) for “issue”, both times it occurs, substitute “birth”.

Signed by authority of the Secretary of State for Work and Pensions.

15th November 2010

Steve Webb
Minister of State,
Department for Work and Pensions

(a) S.I. 1987/1968.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 (S.I. 2005/3061) to add to those eligible for a Sure Start Maternity Grant: people awarded residence orders (adoption orders and parental orders were already included); prospective adopters with whom a child is placed pending adoption; those adopting under certain orders granted outside the British Islands; guardians; and a parent (not the mother) who has responsibility for the child concerned where the parents are not partners when a Sure Start Maternity Grant is claimed. It recasts the provision against double payment to reflect these changes.

These Regulations also make consequential and other amendments to the Social Security (Claims and Payments) Regulations 1987 (a) in relation to the prescribed time for claiming a Sure Start Maternity Grant; (b) to update the definition of “actual date of confinement” and “confinement”; and (c) to change the reference in the latter from 28 weeks to 24 for consistency with other legislation.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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STATUTORY INSTRUMENTS

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