

2019 No. 1060

CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

SOCIAL SECURITY

The Social Security (Scotland) Act 2018 (Funeral Expense Assistance and Early Years Assistance) (Consequential Modifications and Savings) Order 2019

Made - - - - - *24th June 2019*

Laid before Parliament *3rd July 2019*

Coming into force in accordance with article 1(2)

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104 and 113(2), (4) and (5) of the Scotland Act 1998(a).

PART 1

Introductory

Citation, commencement and extent

1.—(1) This Order may be cited as the Social Security (Scotland) Act 2018 (Funeral Expense Assistance and Early Years Assistance) (Consequential Modifications and Savings) Order 2019.

(2) This Order comes into force as follows:

- (a) article 20, in so far as it inserts paragraph 23 into Schedule 10 of the Universal Credit Regulations (Northern Ireland) 2016(b), 21 days after the day on which it is laid; and
- (b) all other provisions, immediately after the coming into force of the first Regulations made under section 34 of the Social Security (Scotland) Act 2018(c).

(3) Each amendment made by this Order has the same extent as the provision being amended.

(a) 1998 c.46; section 104 was amended by section 12 of the Scotland Act 2012 (c.11).
(b) S.R. 2016 No. 216; relevant amending instrument is S.R. 2017 No. 116.
(c) 2018 asp 9.

PART 2

Amendments and savings in relation to funeral payments

Interpretation

2. In this Part:

- (a) the “2005 Regulations” means the Social Fund Maternity and Funeral Expenses (General) Regulations 2005(a);
- (b) the “Northern Ireland Regulations” means the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005(b).

Amendment of the 2005 Regulations

3.—(1) The 2005 Regulations are amended as follows.

(2) In regulation 4 (provision against double payment: funeral payments), in paragraph (1), after “such a payment”, insert “, or an award of funeral expense assistance given in accordance with regulations made under section 34 of the Social Security (Scotland) Act 2018,”.

(3) In the heading of Part 3, after “expenses”, insert “in England and Wales”.

(4) In regulation 7 (funeral payments: entitlement):

- (a) in paragraph (2), for “(9)” substitute “(9A)”;
- (b) after paragraph (9), insert—

“(9A) The seventh condition is that the claimant lives in England and Wales.”.

Saving in relation to the amendments of the 2005 Regulations

4.—(1) The amendments made to the 2005 Regulations in article 3 are of no effect in relation to a claim for a funeral payment made before the date on which the first Regulations made under section 34 of the Social Security (Scotland) Act 2018 come into force.

(2) In paragraph (1), “funeral payment” has the meaning given in regulation 7(1)(a) of the 2005 Regulations.

Amendment of the Northern Ireland Regulations

5.—(1) The Northern Ireland Regulations are amended as follows.

(2) In regulation 4 (provision against double payment: funeral payments), in paragraph (1), after “such a payment”, insert “, or an award of funeral expense assistance given in accordance with regulations made under section 34 of the Social Security (Scotland) Act 2018,”.

(3) In regulation 7 (funeral payments: entitlement):

- (a) in paragraph 2, for “(9)” substitute “(9A)”;
- (b) after paragraph (9), insert—

“(9A) The seventh condition is that the claimant lives in Northern Ireland”.

Saving in relation to the amendments of the Northern Ireland Regulations

6.—(1) The amendments made to the Northern Ireland Regulations in article 5 are of no effect in relation to a claim for a funeral payment made before the date on which the first Regulations made under section 34 of the Social Security (Scotland) Act 2018 come into force.

(a) S.I. 2005/3061; relevant amending instrument is S.I. 2010/2760.

(b) S.R. 2005 No. 506; relevant amending instrument is S.R. 2010 No. 378.

(2) In paragraph (1), “funeral payment” has the meaning given in regulation 7(1)(a) of the Northern Ireland Regulations.

PART 3

Disregards in relation to Funeral Expense Assistance (England and Wales and Northern Ireland) and Early Years Assistance (Universal Credit in Northern Ireland)

Amendment of the Income Support (General) Regulations 1987

7.—(1) The Income Support (General) Regulations 1987(a) are amended as follows.

(2) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings), after paragraph 82 insert—

“**83.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 10 (capital to be disregarded), after paragraph 75 insert—

“**76.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

Amendment of the Income Support (General) Regulations (Northern Ireland) 1987

8.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(b) are amended as follows.

(2) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings), after paragraph 74 insert—

“**75.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 10 (capital to be disregarded), after paragraph 67 insert—

“**68.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

Amendment of the Jobseeker’s Allowance Regulations 1996

9.—(1) The Jobseeker’s Allowance Regulations 1996(c) are amended as follows.

(2) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings), after paragraph 78 insert—

“**79.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 8 (capital to be disregarded), after paragraph 68 insert—

“**69.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(a) S.I. 1987/1967; relevant amending instrument is S.I. 2018/1138.

(b) S.R. 1987 No. 459; relevant amending instrument is S.R. 2018 No. 192.

(c) S.I. 1996/207; relevant amending instrument is S.I. 2018/1138.

Amendment of the Jobseeker’s Allowance Regulations (Northern Ireland) 1996

10.—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996^(a) are amended as follows.

(2) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings), after paragraph 70 insert—

“**71.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 7 (capital to be disregarded), after paragraph 60 insert—

“**61.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

Amendment of the State Pension Credit Regulations 2002

11.—(1) The State Pension Credit Regulations 2002^(b) are amended as follows.

(2) In regulation 15(1) (social security benefits which are not prescribed for the purposes of income as described in section 15(1)(e) of the State Pension Credit Act 2002^(c)), after sub-paragraph (rb) insert—

“(rc)funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Part 1 of Schedule 5 (capital disregarded for the purpose of calculating income), after paragraph 20(2)(r) insert—

“(s) funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

Amendment of the State Pension Credit Regulations (Northern Ireland) 2003

12.—(1) The State Pension Credit Regulations (Northern Ireland) 2003^(d) are amended as follows.

(2) In regulation 15(1) (social security benefits which are not prescribed for the purposes of income and capital as described in section 15(1)(e) of the State Pension Credit Act (Northern Ireland) 2002^(e)), after sub-paragraph (qb) insert—

“(qc) funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Part 1 of Schedule 5 (capital disregarded for the purpose of calculating income), after paragraph 20(2)(q) insert—

“(r) funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

Amendment of the Housing Benefit Regulations 2006

13.—(1) The Housing Benefit Regulations 2006^(f) are amended as follows.

(a) S.R. 1996 No. 198; relevant amending instrument is S.R. 2018 No. 192.
(b) S.I. 2002/1792; relevant amending instrument is S.I. 2018/1138.
(c) 2002 c.16.
(d) S.R. 2003 No. 28; relevant amending instruments are S.R. 2018 No. 192 and S.R. 2019 No. 23.
(e) 2002 c.14 (N.I.).
(f) S.I. 2006/213; relevant amending instrument is S.I. 2018/1138.

(2) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings), after paragraph 69 insert—

“70. Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 6 (capital to be disregarded), after paragraph 65 insert—

“66. Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

Amendment of the Housing Benefit Regulations (Northern Ireland) 2006

14.—(1) The Housing Benefit Regulations (Northern Ireland) 2006(a) are amended as follows.

(2) In Schedule 6 (sums to be disregarded in the calculation of income other than earnings), after paragraph 67 insert—

“68. Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 7 (capital to be disregarded), after paragraph 61 insert—

“62. Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

15.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(b) are amended as follows.

(2) In regulation 29 (meaning of “income”), after paragraph (1)(j)(xviic) insert—

“(xviid) funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Part 1 of Schedule 6 (capital to be disregarded generally), after paragraph 21(2)(q) insert—

“(r) funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006

16.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006(c) are amended as follows.

(2) In regulation 27(1)(h) (meaning of “income”), after paragraph (xvc) insert—

“(xvd) funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Part 1 of Schedule 7 (capital to be disregarded generally), after paragraph 21(2)(o) insert—

“(p) funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(a) S.R. 2006 No. 405; relevant amending instruments are S.R. 2018 No. 192 and S.R. 2019 No. 23.

(b) S.I. 2006/214; relevant amending instrument is S.I. 2018/1138.

(c) S.R. 2006 No. 406; relevant amending instruments are S.R. 2018 No. 192 and S.R. 2019 No. 23.

Amendment of the Employment and Support Allowance Regulations 2008

17.—(1) The Employment and Support Allowance Regulations 2008(a) are amended as follows.

(2) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings), after paragraph 70 insert—

“**71.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 9 (capital to be disregarded), after paragraph 63 insert—

“**64.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

Amendment of the Employment and Support Allowance Regulations (Northern Ireland) 2008

18.—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008(b) are amended as follows.

(2) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings), after paragraph 65 insert—

“**66.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

(3) In Schedule 9 (capital to be disregarded), after paragraph 58 insert—

“**59.** Any funeral expense assistance given in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

Amendment of the Universal Credit Regulations 2013

19.—(1) The Universal Credit Regulations 2013(c) are amended as follows.

(2) In Schedule 10 (capital to be disregarded), after paragraph 21 insert—

“**22.** Any funeral expense assistance given within the past 12 months in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

Amendment of the Universal Credit Regulations (Northern Ireland) 2016

20.—(1) The Universal Credit Regulations (Northern Ireland) 2016(d) are amended as follows.

(2) In Schedule 10 (capital to be disregarded), after paragraph 22 insert—

“**23.** Any early years assistance given within the past 12 months in accordance with section 32 of the Social Security (Scotland) Act 2018.

24. Any funeral expense assistance given within the past 12 months in accordance with section 34 of the Social Security (Scotland) Act 2018.”.

David Mundell
Secretary of State

Office of the Secretary of State for Scotland

24th June 2019

(a) S.I. 2008/794; relevant amending instrument is S.I. 2018/1138.

(b) S.R. 2008 No. 280; relevant amending instruments are S.R. 2018 No. 192 and S.R. 2019 No. 23.

(c) S.I. 2013/376; relevant amending instrument is S.I. 2018/1138.

(d) S.R. 2016 No. 216; relevant amending instrument is S.R. 2017 No. 116.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends social security legislation in Great Britain and Northern Ireland as a consequence of sections 24 and 34 of the Social Security (Scotland) Act 2018 (asp 9) (“the 2018 Act”), and regulations made under section 34, which make provision for the payment by Scottish Ministers of funeral expense assistance, including amounts for the costs of burial or cremation, to qualifying individuals.

This Order also amends social security legislation in Northern Ireland as a consequence of section 32 of the 2018 Act, and regulations made under section 32, which make provision for the payment by Scottish Ministers of early years assistance to qualifying individuals.

Article 1(2) provides that this Order comes into force immediately after the coming into force of the first Regulations made under section 34 of the 2018 Act, except for the single provision relating to early years assistance, which comes into force 21 days after this Order is laid.

Part 2 contains consequential amendments to the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 (S.I. 2005/3061) (“the 2005 Regulations”) and the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 506) (“the Northern Ireland Regulations”) so that a person who is awarded funeral expense assistance under regulations made under section 34 of the 2018 Act for any funeral expenses is not also eligible to receive a payment under the 2005 Regulations or the Northern Ireland Regulations for those expenses. Additional provisions requiring the claimant to live in England and Wales or Northern Ireland are also inserted, to make it clear that a payment cannot be made under the 2005 Regulations or the Northern Ireland Regulations where an applicant lives in Scotland. Part 2 also contains savings provisions in relation to claims for funeral payments under the 2005 Regulations and the Northern Ireland Regulations that are made before the date on which the first Regulations made under section 34 of the 2018 Act come into force.

Part 3 provides for funeral expense assistance to be disregarded as income or capital in Great Britain when determining a claimant’s entitlement to benefits under the Income Support (General) Regulations (S.I. 1987/1967), the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207), the State Pension Credit Regulations 2002 (S.I. 2002/1792), the Housing Benefit Regulations 2006 (S.I. 2006/213), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214), and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794).

Article 19 provides for funeral expense assistance to be disregarded as capital only when determining a claimant’s entitlement under the Universal Credit Regulations 2013 (S.I. 2013/376), as income is automatically disregarded in Universal Credit unless listed in regulation 66 (what is included in unearned income) of those Regulations.

Part 3 also provides for funeral expense assistance to be disregarded as income or capital in Northern Ireland when determining a claimant’s entitlement to benefits under the Income Support (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 459), the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (S.R. 1996 No. 198), the State Pension Credit Regulations (Northern Ireland) 2003 (S.R. 2003 No. 28), the Housing Benefit Regulations (Northern Ireland) 2006 (S.R. 2006 No. 405), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 406), and the Employment and Support Allowance Regulations (Northern Ireland) 2008 (S.R. 2008 No. 280).

Article 20 provides for early years assistance and funeral expense assistance to be disregarded as capital only when determining a claimant’s entitlement to benefits in Northern Ireland under the Universal Credit Regulations (Northern Ireland) 2016 (S.R. 2016 No. 216), as income is automatically disregarded in Universal Credit unless listed in regulation 66 (what is included as unearned income) of those Regulations.

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

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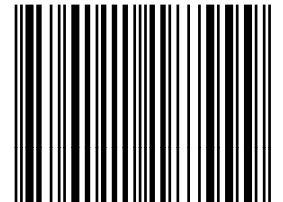
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