
STATUTORY INSTRUMENTS

2005 No. 3061

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

PART I

GENERAL

Citation and commencement

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

Revocation

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

Interpretation

3.—(1) In these Regulations—

“the Act” means the Social Security Contributions and Benefits Act 1992;

[^{F1}“the 1995 Act” means the Jobseekers Act 1995;]

[^{F1} “the 2007 Act ” means the Welfare Reform Act 2007;]

[^{F1} “the 2012 Act” means the Welfare Reform Act 2012;]

[^{F2}“the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;]

“the Income Support Regulations” means the Income Support (General) Regulations 1987 ^{M1};

“the Jobseeker's Allowance Regulations” means the Jobseeker's Allowance Regulations 1996 ^{M2};

“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;

[^{F3}“adoption agency” has the meaning given in section 2 of the Adoption and Children Act 2002;]

[^{F3}“adoption order” means an order made under section 46 of the Adoption and Children Act 2002;]

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“child” means a person under the age of 16 or a young person within the meaning of regulation 14 of the Income Support Regulations ^{M3} or, as the case may be, of regulation 76 of the Jobseeker's Allowance Regulations ^{M4};

[^{F4}“child arrangements order” means a child arrangements order as defined in section 8(1) of the Children Act 1989 which consists of, or includes, arrangements relating to either or both of the following—

- (i) with whom the child is to live, and
- (ii) when the child is to live with any person;]

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002 ^{M5};

“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;

“confinement” means labour resulting in the [^{F5}birth] of a living child, or labour after 24 weeks of pregnancy resulting in the [^{F5}birth] of a child whether alive or dead;

[^{F6}[^{F7}“couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household; or
- (b) two people who are not married to, or civil partners of, each other but are living together [^{F8}as if they were a married couple or civil partners];]

[^{F6}“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) [^{F9}except where the claimant is in receipt of universal credit,] 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;]

^{F10} ...

^{F11} ...

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

[^{F3}“guardian” means a person appointed as a guardian or special guardian under section 5 or 14A of the Children Act 1989;]

“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 Act 1995 by virtue of section 1(4) of that Act ^{M6};

[^{F12}“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance);]

“occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993^{M7} ;
[^{F13}“owner-occupier loan payments” means loan payments made under the Loans for Mortgage Interest Regulations 2017;]

“partner” means where a person—

- (a) is a member of a couple, the other member of that couple;
- (b) is married polygamously to two or more members of his household, any such member [^{F14}except that paragraph (b) does not apply where the claimant is in receipt of universal credit,];

[^{F3}“parental order” means an order made under section 30 of the Human Fertilisation and Embryology Act 1990 or section 54 [^{F15}or section 54A] of the Human Fertilisation and Embryology Act 2008;]

“person affected by a trade dispute” means a person—

- (a) to whom section 126 of the Act applies; or
- (b) to whom that section would apply if a claim for income support were made by or in respect of him;

[^{F3}“placed for adoption” has the meaning given in section 18 of the Adoption and Children Act 2002;]

“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 of, and Schedule 4 to, the Social Security (Claims and Payments) Regulations 1987^{M8} ;

[^{F3}“qualifying order” has the meaning given in regulation 3A(6);]

^{F16}
...

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

“still-born child”, in relation to England and Wales, has the same meaning as in section 12 of the Births and Deaths Registration Act 1926^{M9} and, in relation to Scotland, has the same meaning as in section 56(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965^{M10} ;

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

[^{F17} “universal credit” means universal credit under Part 1 of the 2012 Act;]

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

[^{F18}(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.]

(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,

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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 care home,
 - (b) an Abbeyfield Home, or
 - (c) an independent hospital,

as defined in regulation 2(1)^{M11} of the Income Support Regulations [^{F19}or regulation 2(1) of the Employment and Support Allowance 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 [^{F20}, in regulation 156 of the Employment and Support Allowance Regulations]^{M12} or, as the case may be, in regulation 78(2) and (3)(a) to (c) of the Jobseeker's Allowance Regulations;
 - (b) [^{F21}except where the claimant is in receipt of universal credit,] 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.

[^{F22}(5) For the purposes of these Regulations, a person being treated as entitled to a benefit has the meaning given to it in regulation 2(2)(aa) of the Loans for Mortgage Interest Regulations 2017.]

Textual Amendments

- F1** Words in reg. 3(1) inserted (1.4.2013) by [The Social Fund \(Maternity and Funeral Expenses\) Amendment Regulations 2013 \(S.I. 2013/247\)](#) , regs. 1(2) , **2(2)(a)**
- F2** Words in reg. 3(1) inserted (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#) , regs. 1(2)(b) , **8(2)(a)(i)**
- F3** Words in reg. 3(1) inserted (13.12.2010) by [Social Fund Maternity Grant Amendment Regulations 2010 \(S.I. 2010/2760\)](#) , regs. 1 , **2(2)(b)**
- F4** Words in reg. 3 substituted (22.4.2014) by [The Child Arrangements Order \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/852\)](#), arts. 1, **12(2)**
- F5** Word in reg. 3(1) substituted (13.12.2010) by [Social Fund Maternity Grant Amendment Regulations 2010 \(S.I. 2010/2760\)](#) , regs. 1 , **2(2)(a)**
- F6** Words in reg. 3(1) substituted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), **Sch. 6 para. 26**
- F7** Words in reg. 3(1) substituted (E.W.) (13.3.2014) by [The Marriage \(Same Sex Couples\) Act 2013 \(Consequential Provisions\) Order 2014 \(S.I. 2014/107\)](#), art. 1(2), **Sch. 1 para. 37**
- F8** Words in reg. 3(1) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), reg. 1(2), **Sch. 3 para. 81**
- F9** Words in reg. 3(1) inserted (1.4.2013) by [The Social Fund \(Maternity and Funeral Expenses\) Amendment Regulations 2013 \(S.I. 2013/247\)](#) , regs. 1(2) , **2(2)(b)**
- F10** Words in reg. 3(1) omitted (6.4.2017) by virtue of [The Social Fund \(Amendment\) Regulations 2017 \(S.I. 2017/271\)](#), regs. 1(2), **3(2)**
- F11** Words in reg. 3 omitted (2.4.2018) by virtue of [The Social Fund Funeral Expenses Amendment Regulations 2018 \(S.I. 2018/61\)](#), regs. 1, **4**
- F12** Words in reg. 3(1) inserted (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#) , regs. 1(2)(b) , **8(2)(a)(ii)**

- F13** Words in reg. 3(1) inserted by S.I. 2017/725, Sch. 5 para. 9(2)(a) (as inserted) (6.4.2018) by The Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018 (S.I. 2018/307), regs. 1(2), **2(18)(e)**
- F14** Words in reg. 3(1) inserted (1.4.2013) by The Social Fund (Maternity and Funeral Expenses) Amendment Regulations 2013 (S.I. 2013/247), regs. 1(2), **2(2)(c)**
- F15** Words in reg. 3(1) inserted (3.1.2019) by The Human Fertilisation and Embryology Act 2008 (Remedial) Order 2018 (S.I. 2018/1413), art. 1(1), **Sch. 2 para. 2**
- F16** Words in reg. 3 omitted (22.4.2014) by virtue of The Child Arrangements Order (Consequential Amendments to Subordinate Legislation) Order 2014 (S.I. 2014/852), arts. 1, **12(2)**
- F17** Words in reg. 3(1) inserted (1.4.2013) by The Social Fund (Maternity and Funeral Expenses) Amendment Regulations 2013 (S.I. 2013/247), regs. 1(2), **2(2)(d)**
- F18** Reg. 3(1A) inserted (13.12.2010) by Social Fund Maternity Grant Amendment Regulations 2010 (S.I. 2010/2760), regs. 1, **2(3)**
- F19** Words in reg. 3(3) added (27.10.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **8(2)(b)**
- F20** Words in reg. 3(4)(a) inserted (27.10.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **8(2)(c)**
- F21** Words in reg. 3(4)(b) inserted (1.4.2013) by The Social Fund (Maternity and Funeral Expenses) Amendment Regulations 2013 (S.I. 2013/247), regs. 1(2), **2(3)**
- F22** Reg. 3(5) inserted by S.I. 2017/725, Sch. 5 para. 9(2)(b) (as inserted) (6.4.2018) by The Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018 (S.I. 2018/307), regs. 1(2), **2(18)(e)**

Marginal Citations

- M1** S.I. 1987/1967 .
- M2** S.I. 1996/207 .
- M3** Relevant amending instruments are S.I. 1988/1445 and 2001/3070.
- M4** A relevant amending instrument is S.I. 2001/3070 .
- M5** 2002 c. 21 .
- M6** 1995 c. 18 . Section 1(4) was amended by section 59 of, and paragraph 2 of Schedule 7 to, the Welfare Reform and Pensions Act 1999 (c. 30) .
- M7** c. 48.
- M8** S.I. 1987/1968 . S.I. 1997/792 is a relevant amending instrument.
- M9** 1926 c. 48 . Section 12 was amended by section 1 of the Still-Birth (Definition) Act 1992 (c. 29) .
- M10** 1965 c. 49 . Section 56(1) was amended by section 1 of the Still-Birth (Definition) Act 1992.
- M11** S.I. 2005/2687 is a relevant amending instrument.
- M12** Regulation 16(3)(c) was revoked by regulation 2(2) of, and paragraph 1 of Schedule 1 to, S.I. 1992/3147 .

Provision against double payment: Sure Start Maternity Grants

[^{F23}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 [^{F24}or a Best Start Grant] in respect of C;
- (c) [^{F25}“subsequent grant” is, in respect of C—
 - (i) a second or subsequent Sure Start Maternity Grant; or
 - (ii) if a Best Start Grant has been given, a first Sure Start Maternity Grant;
- (d) “Best Start Grant” is a grant given to a qualifying individual under Regulations made under section 32 of the Social Security (Scotland) Act 2018 in connection with having, or expecting to have, a new baby in the family.]

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(2) Subject to paragraph (3), a [^{F26}subsequent] grant may not be awarded if a first grant has been awarded.

(3) A [^{F27}subsequent] 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 [^{F28}child arrangements] order.]

Textual Amendments

- F23** Regs. 3A, 4 substituted (13.12.2010) for reg. 4 by [Social Fund Maternity Grant Amendment Regulations 2010 \(S.I. 2010/2760\)](#), regs. 1, **2(4)**
- F24** Words in reg. 3A(1)(b) inserted (coming into force in accordance with art. 1(2) of the amending S.I.) by [The Social Security \(Scotland\) Act 2018 \(Best Start Grants\) \(Consequential Modifications and Saving\) Order 2018 \(S.I. 2018/1138\)](#), **art. 3(2)(a)** (with reg. 4)
- F25** Reg. 3A(1)(c)(d) substituted for reg. 3A(1)(c) (coming into force in accordance with art. 1(2) of the amending S.I.) by [The Social Security \(Scotland\) Act 2018 \(Best Start Grants\) \(Consequential Modifications and Saving\) Order 2018 \(S.I. 2018/1138\)](#), **art. 3(2)(b)** (with reg. 4)
- F26** Word in reg. 3A(2) substituted (coming into force in accordance with art. 1(2) of the amending S.I.) by [The Social Security \(Scotland\) Act 2018 \(Best Start Grants\) \(Consequential Modifications and Saving\) Order 2018 \(S.I. 2018/1138\)](#), **art. 3(2)(c)** (with reg. 4)
- F27** Word in reg. 3A(3) substituted (coming into force in accordance with art. 1(2) of the amending S.I.) by [The Social Security \(Scotland\) Act 2018 \(Best Start Grants\) \(Consequential Modifications and Saving\) Order 2018 \(S.I. 2018/1138\)](#), **art. 3(2)(d)** (with reg. 4)
- F28** Words in reg. 3A(6)(c) substituted (22.4.2014) by [The Child Arrangements Order \(Consequential Amendments to Subordinate Legislation\) Order 2014 \(S.I. 2014/852\)](#), arts. 1, **12(3)**

Provision against double payment: funeral payments

[^{F23}4.—(1) Subject to paragraph (2), no funeral payment shall be made under these Regulations if such a payment [^{F29}, or an award of funeral expense assistance given in accordance with regulations made under section 34 of the Social Security (Scotland) Act 2018,] has already been made in respect of any funeral expenses arising from the death of the same person.

(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.]

[^{F30}(3) No funeral payment may be made under these Regulations for an item or service for which payment has been received under The Social Fund (Children's Funeral Fund for England) Regulations 2019, unless the amount paid under those Regulations is less than the total amount charged for the item or service, in which case a payment may be made for an amount not exceeding the remainder of the amount charged.]

Textual Amendments

- F23** Regs. 3A, 4 substituted (13.12.2010) for reg. 4 by [Social Fund Maternity Grant Amendment Regulations 2010 \(S.I. 2010/2760\)](#) , regs. 1 , **2(4)**
- F29** Words in reg. 4(1) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Social Security \(Scotland\) Act 2018 \(Funeral Expense Assistance and Early Years Assistance\) \(Consequential Modifications and Savings\) Order 2019 \(S.I. 2019/1060\)](#) , **art. 3(2)** (with art. 4)
- F30** Reg. 4(3) inserted (23.7.2019) by [The Social Fund \(Childrens Funeral Fund for England\) Regulations 2019 \(S.I. 2019/1064\)](#) , regs. 1(1), **7(2)**

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