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STATUTORY INSTRUMENTS

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1986 No. 2172

**SOCIAL SECURITY**

**The Social Fund Maternity and Funeral Expenses  
(Claims and Payments) Regulations 1986**

*Made* - - - 9th December 1986

*Laid before Parliament* 16th December 1986

*Coming into Operation* 6th April 1987

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The Secretary of State for Social Services, in the exercise of the powers conferred by sections 51(1)(a) to (s) and (2), 54 and 84(1) of the Social Security Act 1986(a), section 114 of the Social Security Act 1975(b) and all other powers enabling him in that behalf, by this instrument which contains only regulations made under those sections of the Social Security Act 1986 and provisions consequential on them and which is made before the end of a period of 12 months from the commencement of those sections, makes the following regulations:—

## PART I

## GENERAL

*Citation and commencement*

1. These regulations may be cited as the Social Fund Maternity and Funeral Expenses (Claims and Payments) Regulations 1986 and shall come into operation on 6th April 1987.

*Interpretation*

2.—(1) In these regulations unless the context otherwise requires —

“the Act” means the Social Security Act 1986;

“the actual date of confinement” means the date of the issue of the child or, if the woman is confined of twins or a greater number of children, the date of the issue of the last of them;

“the adjudicating authority” means the person or body with responsibility under the Social Security Acts 1975 to 1986, and regulations made thereunder, for the determination of claims for social fund payments and questions arising in connection with such claims;

“beneficiary” means a person who has been awarded a social fund payment;

“claimant” means a person claiming a social fund payment;

“confinement” means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead, and “confined” shall be construed accordingly;

“the Department” means the Department of Health and Social Security;

“funeral” means burial or cremation;

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(a) 1986 c.50; section 84(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.

(b) 1975 c.14; section 114 is amended by the Social Security Act 1986, Schedule 5, paragraph 16 and applied to social fund payments by section 52(5) of that Act.

“social fund payment” means a payment out of the social fund under section 32(2)(a), to meet maternity expenses or funeral expenses;

“week” means a period of 7 days beginning with midnight between Saturday and Sunday.

- (2) Unless the context otherwise require, any reference in these regulations to —
- (a) a numbered section is to the section of the Act bearing that number;
  - (b) a numbered Part or regulation is to the Part or regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

## PART II

### CLAIMS

#### *Making a claim for a social fund payment*

3.—(1) Every claim for a social fund payment shall be made in writing on a form approved by the Secretary of State, or in such other manner, being in writing, as the Secretary of State may accept as sufficient in the circumstances of any particular case.

(2) Forms of claim shall be supplied without charge by such persons as the Secretary of State may appoint or authorise for that purpose.

(3) Every claim shall be sent to an office of the Department.

(4) If a claim is defective at the date when it is received, or has been made in writing but not on the form approved for the time being, the Secretary of State may refer the claim to the person making it or, as the case may be, supply him with the approved form, and if the form is received properly completed within one month, or such longer period as the Secretary of State may consider reasonable, from the date on which it is referred or supplied, the Secretary of State shall treat the claim as if it had been duly made in the first instance.

(5) A claim which is made on the approved form for the time being is, for the purposes of paragraph (4) and regulation 5, properly completed if completed in accordance with the instructions on the form and defective if not so completed.

#### *Amendment and withdrawal of claim*

4.—(1) A person who has made a claim may amend or withdraw it, at any time before a determination has been made on it, by a notice in writing delivered or sent to an office of the Department and any claim so amended may be treated as if it had been so amended in the first instance.

(2) A notice of withdrawal, delivered or sent in accordance with paragraph (1), shall have effect when it is received.

*Date of claim*

5. Subject to regulation 7(4), the date on which a claim is made shall be —
- (a) in the case of a claim which meets the requirements of regulation 3(1) the date on which it is received in an office of the Department;
  - (b) in the case of a claim which does not meet the requirements of regulation 3(1) but which is treated, under regulation 3(4), as having been duly made, the date on which the claim was received in an office of the Department in the first instance.

*Evidence, information and attendance*

6.—(1) Every person who makes a claim for a social fund payment shall furnish such certificates, documents, information and evidence in connection with the claim, or any question arising out of it, as may be required by the Secretary of State and shall do so within one month of being required to do so, or such longer period as the Secretary of State may consider reasonable.

(2) Every claimant shall attend at such office or place as the Secretary of State may direct, for the purpose of furnishing certificates, documents, information and evidence under paragraph (1), if reasonably so required by the Secretary of State.

*Time for making a claim*

7.—(1) A claim for a social fund payment for maternity expenses may be made no earlier than 11 weeks before the expected week of confinement and, subject to paragraph (3), no later than 3 months after the actual date of confinement or, in the case of an adopted baby, the date of the adoption order.

(2) A claim for a social fund payment for funeral expenses may be made no earlier than the date of death of the deceased and, subject to paragraph (3), no later than 3 months after the date of the funeral.

(3) Where the claimant makes a claim on a date between 3 and 12 months from the actual date of confinement or, as the case may be, the funeral and proves that there was good cause, throughout the period from the expiry of the 3 months, for the failure to make the claim before it was made, the time prescribed by paragraph (1) or, as the case may be, (2) shall be extended to the date on which the claim is made.

(4) Where a claimant for maternity expenses in respect of an adoption makes a claim on a date between 3 and 12 months from the date of the adoption order and proves that there was good cause, throughout the period from the expiry of the 3 months, for the failure to make the claim before it was made, the claim shall be treated as if it had been made immediately before the expiry of the 3 months.

**Part III****PAYMENTS***Time and manner of payment*

8. Subject to the provisions of Part IV (Third Parties), a social fund payment shall be made to a beneficiary under an award as soon as is reasonably practicable

after the award has been made, by means of such instrument of payment as appears to the Secretary of State to be appropriate in the circumstances of any particular case.

*Payment to a person under 18*

9. Where a person who is awarded a social fund payment is under the age of 18, his signature on any instrument of payment shall be a sufficient discharge to the Secretary of State for any sum paid under such instrument.

*Payment on the death of the claimant*

10.—(1) On the death of a claimant the Secretary of State may appoint such person as he may think fit to proceed with the claim.

(2) Subject to paragraph (4), any sum payable under an award proceeded with under paragraph (1) may be paid or distributed by the Secretary of State to or amongst persons over the age of 16 claiming as personal representatives, legatees, next of kin, or creditors of the deceased (or, where the deceased was illegitimate, to or amongst other persons over the age of 16), and regulation 16 (extinguishment) shall apply to any such payment or distribution; and —

- (a) the receipt of any such person shall be a good discharge to the Secretary of State for any sum so paid;
- (b) where the Secretary of State is satisfied that any such sum, or part of it, is needed for the benefit of any person under the age of 16, he may obtain a good discharge for it by paying the sum, or part, to a person over that age who satisfies the Secretary of State that he will apply the sum so paid for the benefit of the person under the age of 16.

(3) Subject to paragraph (4), any social fund payment which was payable to the deceased, at the date of his death, may, unless the right to it was already extinguished at that date, be paid or distributed to or amongst such persons as are mentioned in paragraph (2), and regulation 16 shall apply to any such payment or distribution, except that the period of 12 months shall be calculated from the date on which the right to payment of any sum is treated as having arisen in relation to any such person, not the date on which it is treated as having arisen in relation to the deceased.

(4) Paragraphs (2) and (3) shall not apply unless written application for the payment is made to the Secretary of State within 12 months from the date of the deceased's death or such longer period as the Secretary of State may consider reasonable.

(5) The Secretary of State may dispense with strict proof of the title of any person claiming under this regulation.

(6) In paragraph (2) "next of kin" means —

- (a) in England and Wales, the persons who would take beneficially on an intestacy;
- (b) in Scotland, the persons entitled to the moveable estate of the deceased on intestacy.

*Information to be given when obtaining payment of benefit*

11. Every beneficiary and every person by whom or on whose behalf social fund payments are receivable shall furnish in such manner and at such times as the Secretary of State may determine such certificates and other documents and such information of facts affecting the right to the payment as the Secretary of State may require (either as a condition on which any payments shall be receivable or otherwise), and in particular shall notify the Secretary of State of any change of circumstances which he might reasonably be expected to know might affect the right to the payment, as soon as reasonably practicable after the occurrence thereof, by giving notice in writing of any such change to the Department.

## PART IV

## THIRD PARTIES

*Persons unable to act*

12.—(1) Where in the case of any person —

- (a) he is entitled to, or alleged to be entitled to, a social fund payment;
- (b) he is unable for the time being to act; and either
- (c) no receiver has been appointed by the Court of Protection with power to claim, or as the case may be, receive payment on his behalf; or
- (d) in Scotland, his estate is not being administered by any tutor, curator or other guardian acting or appointed in terms of law,

the Secretary of State may upon written application made to him by a person who, if a natural person, is over the age of 18, appoint that person to exercise, on behalf of the person who is unable to act, any right to which that person may be entitled under the Act and to receive and deal on his behalf with any sums payable to him.

(2) Where the Secretary of State has made an appointment under paragraph (1) —

- (a) he may at any time in his discretion revoke any such appointment;
- (b) the person appointed may resign his office after having given one month's notice in writing to the Secretary of State of his intention to do so;
- (c) any such appointment shall terminate when the Secretary of State is notified that a receiver or other person to whom paragraph (1)(c) or (d) applies has been appointed.

(3) Anything required by these regulations to be done by or to any person who is for the time being unable to act may be done by or to the receiver, tutor, curator or other guardian, if any, or by or to the person appointed and the receipt of any person appointed shall be a good discharge to the Secretary of State for any sum paid.

*Payment to another person on the beneficiary's behalf*

13. If it appears to the Secretary of State to be necessary for protecting the interests of the beneficiary, or any child or dependant in respect of whom a social fund payment is payable, or if the beneficiary so requests, the Secretary of State may direct that it shall be paid, wholly or in part, to another person on the beneficiary's behalf.

*Direct payment to a third-party*

14. Where a social fund payment is made, wholly or in part, in respect of a debt which is, or will be, due to a third person, the instrument of payment may be, and in the case of funeral expenses shall be, made payable to that person and it may, in any case, be delivered or sent to that person as a direct payment.

## PART V

## SUSPENSION AND EXTINGUISHMENT

*Suspension*

15. Where it appears to the Secretary of State that a question has arisen in relation to a person's entitlement to a social fund payment, he may direct that payment shall be suspended, wholly or in part, pending the determination of that question on review, appeal or reference.

*Extinguishment of right to be paid*

16.—(1) The right to be paid a social fund payment shall, subject to paragraph (2), be extinguished where payment is not obtained within 12 months from the date on which the right is to be treated as having arisen; and for the purposes of this regulation the right shall be treated as having arisen —

- (a) in relation to any sum contained in an instrument of payment which has been given or sent to the person to whom it is payable, or to a place approved by the Secretary of State as a place for collection by him (whether or not received or collected as the case may be) —
  - (i) on the date of that instrument of payment, or
  - (ii) if a further instrument of payment has been given or sent as a replacement, on the date of the last such instrument;
- (b) in relation to any sum to which sub-paragraph (a) does not apply, where notice is given (whether orally or in writing) or is sent that the sum contained in the notice is available for collection —
  - (i) if written notice is sent through the post, on the date on which it would be delivered in the ordinary course of post, and
  - (ii) in any other case, on the date of the notice,and, in any case, if more than one such notice is given or sent, on the date determined by reference to the first such notice;
- (c) in relation to any such sum to which neither (a) nor (b) applies, on such date as the Secretary of State determines.

(2) The giving or sending of an instrument of payment under paragraph (1)(a), or of a notice under paragraph (1)(b), shall be effective for the purposes of that paragraph, even where the sum contained in the instrument, or notice, is more or less than the sum which the person concerned has the right to receive.

(3) Where a question arises whether the right to payment has been extinguished under this regulation and the adjudicating authority is satisfied that —

- (a) after the expiration of the period of 12 months the Secretary of State has received written notice requesting payment of that sum; and
- (b) throughout a period commencing within that period of 12 months and continuing up to the date on which that notice was given there was good cause for not giving that notice,

that period of 12 months shall be extended to the date on which the adjudicating authority decides that question and, for the purposes of this regulation, the right to payment of that sum shall, notwithstanding the provisions of paragraph (1), be treated, thereafter, as having arisen on that date.

(4) This regulation shall apply to a person authorised or appointed to act on behalf of a beneficiary as it applies to a beneficiary.

## PART VI

### MISCELLANEOUS

#### *Instruments of payment*

17. Instruments of payment issued by the Secretary of State shall remain his property; and any person having such an instrument shall, on ceasing to be entitled to the payment to which the instrument relates or, when so required by the Secretary of State, deliver the instrument to the Secretary of State or to such other person as he may direct.

#### *Breach of regulations*

18. If any person contravenes or fails to comply with any requirement of regulation 11 or 17 he shall for such offence be liable on summary conviction to a penalty not exceeding £400 or, where the offence consists of continuing any such contravention or failure after conviction, £40 for each day on which it is so continued.

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

*John Major,*  
Minister of State,  
Department of Health and Social Security.

9th December 1986.



## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations provide for the making of claims for social fund payments for maternity or funeral expenses and for the payment of sums awarded.

They come into force on 6th April 1987 and are made under, or in consequence of, sections of the Social Security Act 1986 which have not yet been in force for twelve months; they are, accordingly, exempt, by section 61(5) of that Act, from reference to the Social Security Advisory Committee and have not been so referred.

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