
STATUTORY INSTRUMENTS

1997 No. 792

The Social Security (Social Fund and Claims and Payments) (Miscellaneous Amendments) Regulations 1997

Substitution of regulation 7 of the General Regulations

5. For regulation 7 of the General Regulations⁽¹⁾ (entitlement to a funeral payment) there shall be substituted the following regulations—

“Entitlement

7.—(1) Subject to the following provisions of this regulation, regulation 8 and to Parts IV and V of these Regulations, a social fund payment (referred to in these Regulations as a “funeral payment”) to meet funeral expenses shall be made only where—

- (a) the claimant or his partner (in this Part of these Regulations referred to as “the responsible person”), at the date of the claim for a funeral payment—
 - (i) has an award of income support, income-based jobseeker’s allowance, family credit, disability working allowance, housing benefit or council tax benefit where, in the case of council tax benefit, that benefit is awarded by virtue of the claimant or his partner having fulfilled the conditions of entitlement specified in section 131(3) to (5) of the Social Security Contributions and Benefits Act 1992 (certain conditions for entitlement to council tax benefit)⁽²⁾; or
 - (ii) is a person to whom (by virtue of subsection (7) of section 131 of that Act) subsection (6) of that section applies where, on a claim for council tax benefit, the conditions of entitlement specified in section 131(3) and (6) for an award of an alternative maximum council tax benefit are fulfilled;
- (b) the funeral of the deceased takes place in the United Kingdom;
- (c) the deceased was ordinarily resident in the United Kingdom at the date of his death;
- (d) the claim is made within the prescribed time for claiming a funeral payment; and
- (e) the claimant or his partner accepts responsibility for those expenses and—
 - (i) the responsible person was the partner of the deceased at the date of death; or
 - (ii) in a case where the deceased was a child or a still-born child and—
 - (aa) there is no absent parent; or
 - (bb) there is an absent parent who, or whose partner, was awarded a benefit to which sub-paragraph (a) above refers at the date of death,

(1) Regulation 7 was amended by S.I.1988/36, 1993/479, 1995/1229 and 1996/1443.

(2) “Council tax benefit” was added to the income-related benefits in Part VII of the Social Security Contributions and Benefits Act 1992 by Schedule 9 to the Local Government Finance Act 1992 (c. 14) and paragraph 4 of that Schedule substituted a new section 131 with respect to council tax benefit in the Social Security Contributions and Benefits Act 1992.

the responsible person was the person or the partner of a person responsible for that child for the purposes of Part IX of the Social Security Contributions and Benefits Act 1992, at the date of death, or, as the case may be, a parent of that still-born child; or

(iii) in a case where (i) and (ii) above do not apply, the responsible person was an immediate family member of the deceased and it is reasonable for the responsible person to accept responsibility for those expenses; or

(iv) in any other case, the responsible person was either—

(aa) a close relative (other than an immediate family member) 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.

(2) For the purposes of paragraph (1)(e)(iii) and (iv), the deceased shall be treated as having had no partner where the deceased had a partner at the date of death and—

(a) no claim for funeral expenses is made by the partner in respect of the death of the deceased; and

(b) that partner dies before the date upon which the deceased's funeral takes place.

(3) In a case to which paragraph (1)(e) (iii) or (iv) applies and subject to paragraph (4), the responsible person shall not be entitled to a funeral payment under these Regulations where —

(a) there are one or more immediate family members of the deceased (not including any immediate family members who were children at the date of death of the deceased);

(b) neither those immediate family members nor their partners have been awarded a benefit to which paragraph (1) (a) refers; and

(c) any of the immediate family members to which sub-paragraph (b) above refers was not estranged from the deceased at the date of his death.

(4) Paragraph (3) shall not apply to disentitle the responsible person from a funeral payment where the immediate family member to whom that paragraph applies is—

(a) a person who is aged less than 19 and who is attending a full-time course of advanced education as defined in regulation 61 of the Income Support Regulations or, as the case may be, a person aged 19 or over but under pensionable age who is attending a full-time course of study at an educational establishment;

(b) a member of, and fully maintained by, a religious order;

(c) being detained in a prison, remand centre or youth custody institution and either that immediate family member or his partner had been awarded a benefit to which paragraph (1) (a) refers immediately before that immediate family member was so detained; or

(d) a person who is regarded as receiving free in-patient treatment within the meaning of the Social Security (Hospital In-Patients) Regulations 1975(3) or, as the case may be, the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975(4) and either that immediate family member or his partner had been awarded

(3) S.I. 1975/55; the relevant amending instrument is S.I. 1992/2595.

(4) S.R. 1975 No. 109 (N.I.); the relevant amending instrument is S.R. 1992 No. 453.

a benefit to which paragraph (1)(a) refers immediately before that immediate family member was first regarded as receiving such treatment.

(5) In a case to which paragraph (1)(e)(iii) or (iv) applies, whether it is reasonable for a person to accept responsibility for meeting the expenses of a funeral shall be determined by the nature and extent of that person's contact with the deceased.

(6) Except in a case where paragraph (7) applies, in a case where the deceased had one or more close relatives and the responsible person is a person to whom paragraph (1)(e)(iii) or (iv) applies, if on comparing the nature and extent of any close relative's contact with the deceased and the nature and extent of the responsible person's contact with the deceased, any such close relative was –

- (a) in closer contact with the deceased than the responsible person; or
- (b) in equally close contact with the deceased and neither that close relative nor his partner, if he has one, has been awarded a benefit to which paragraph (1) (a) refers; or
- (c) in equally close contact with the deceased and possesses, together with his partner, if he has one, more capital than the responsible person and his partner and that capital exceeds,
 - (i) where the close relative or his partner is aged 60 or over, £1,000; or
 - (ii) where the close relative and his partner, if he has one, are both aged under 60, £500,

the responsible person shall not be entitled to a funeral payment under these Regulations in respect of those expenses.

(7) Paragraph (6) shall not apply where the close relative who was in closer contact with the deceased than the responsible person or, as the case may be, was in equally close contact with the deceased–

- (a) was a child at the date of death; and
- (b) was the only close relative (not being a child) to whom any of sub-paragraphs (a) to (c) of paragraph (6) applies.

Amount of funeral payment

7A.—(1) Subject to paragraphs (4) and (5), regulation 8 and Part IV of these Regulations, the amount of a funeral payment shall be an amount sufficient to meet any of the costs which fall to be met or have been met by the claimant or his partner or a person acting on their behalf and which are specified in paragraph (2), inclusive of any available discount on those costs allowed by the funeral director or by any other person who arranges the funeral.

- (2) The costs which may be met for the purposes of paragraph (1) are–
 - (a) except where sub-paragraph (b) applies, in the case of a burial –
 - (i) the necessary costs of purchasing a new burial plot for the deceased, together with an exclusive right of burial in that plot;
 - (ii) the necessary costs of the burial;
 - (b) in the case of a cremation–
 - (i) the necessary costs of the cremation, including medical references;
 - (ii) the cost of any necessary registered medical practitioner's certificates;

- (iii) the fee payable for the removal of any device as defined for the purposes of the Active Implantable Medical Devices Regulations 1992(5) save that where that removal is carried out by a person who is not a registered medical practitioner, no more than £20 shall be met in respect of that fee;
 - (c) the cost of obtaining any documentation, production of which is necessary in order to release any assets of the deceased which may be deducted from a funeral payment pursuant to regulation 8;
 - (d) where the deceased died at home or away from home and it is necessary to transport the deceased within the United Kingdom in excess of 50 miles to the funeral director's premises or to the place of rest, the reasonable cost of transport in excess of 50 miles;
 - (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 deceased's place of rest to the funeral and—
 - (i) that transportation necessarily exceeds 50 miles; or
 - (ii) that transportation exceeds 50 miles and the cost of that transportation together with the cost of burial in an existing plot does not exceed the cost which would have been incurred under sub-paragraph (a) above and, where appropriate, under head (i) of this sub-paragraph, the reasonable cost of transport in excess of 50 miles;
 - (f) the reasonable expenses of one return journey within the United Kingdom for the responsible person, either for the arrangement of, or attendance at, the funeral;
 - (g) any other funeral expenses which shall not exceed £600 in any case.
- (3) All references in paragraph (2) (d) and (e) to a distance of 50 miles shall be construed as applying to the total distance of the journey referred to in those sub-paragraphs.
- (4) The cost of items and services which may be met under paragraph (2) (a), (d) and (e) shall not be taken to include any element in the cost of those items and services which relates to a requirement of the deceased's religious faith.
- (5) Where items and services have been provided on the death of the deceased under a pre-paid funeral plan or under any analogous arrangement—
- (a) no funeral payment shall be made in respect of items or services referred to in paragraph (2) which have been provided under such a plan or arrangement; and
 - (b) paragraph (2) (g) shall have effect in relation to that particular claim as if for the sum "£600", there were substituted the sum "£100".