
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 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;

“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};

“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;

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“confinement” means labour resulting in the issue of a living child, or labour after 24 weeks of pregnancy resulting in the issue of a child whether alive or dead;

“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners, and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;

“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) 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;

“family element” means—

- (a) in a case where any child in respect of whom child tax credit is payable is under the age of one year, the amount specified in regulation 7(3)(a) of the Child Tax Credit Regulations 2002 ^{M6}, or
- (b) in any other case, the amount specified in regulation 7(3)(b) of those Regulations, but subject to calculations of that amount made in accordance with the Tax Credits (Income Thresholds and Determination of Rates) Regulations 2002 ^{M7};

“funeral” means a burial or a cremation;

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

“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 ^{M8};

[^{F2}“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 ^{M9};

“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;

“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;

“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^{M10};

“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^{M11} 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^{M12};

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

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

(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,

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)^{M13} of the Income Support Regulations [^{F3}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^{F4}, in regulation 156 of the Employment and Support Allowance Regulations^{M14} or, as the case may be, in regulation 78(2) and (3)(a) to (c) of the Jobseeker's Allowance Regulations;
- (b) 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.

Textual Amendments

- F1** 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)**
- 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)(ii)**
- F3** 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)**

Status: Point in time view as at 27/10/2008.

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- F4** 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)**

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** [S.I. 2002/2007](#) .
- M7** [S.I. 2002/2008](#) .
- M8** [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 \(c. 30\)](#) .
- M9** [c. 48](#).
- M10** [S.I. 1987/1968](#) . [S.I. 1997/792](#) is a relevant amending instrument.
- M11** [1926 c. 48](#) . Section 12 was amended by section 1 of the [Still-Birth \(Definition\) Act 1992 \(c. 29\)](#) .
- M12** [1965 c. 49](#) . Section 56(1) was amended by section 1 of the [Still-Birth \(Definition\) Act 1992](#).
- M13** [S.I. 2005/2687](#) is a relevant amending instrument.
- M14** [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

4.—(1) Subject to paragraph (2), no Sure Start Maternity Grant shall be made under these Regulations if such a payment has already been made in respect of the child in question.

(2) Notwithstanding that a Sure Start Maternity Grant has been made to the natural mother of a child, or to one of her family, a second such payment may, subject to the following provisions of these Regulations, be made to the adoptive parents of the child in question or to persons who have been granted an order in respect of the child in question pursuant to section 30 of the [Human Fertilisation and Embryology Act 1990](#) ^{M15} (parental orders).

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

(4) 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.

Marginal Citations

- M15** [c. 37](#).

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