

2008 No.3108

SOCIAL SECURITY

**The Health in Pregnancy Grant (Entitlement and Amount)
Regulations 2008**

<i>Made</i> - - - -	<i>9th December 2008</i>
<i>Laid before Parliament</i>	<i>10th December 2008</i>
<i>Coming into force</i> - -	<i>1st January 2009</i>

The Treasury, in exercise of the powers conferred by sections 140A(1),(2), (4) to (6), 140B(1) and 175 of the Social Security Contributions and Benefits Act 1992(a), sections 136A(1),(2),(4) to (6), 136B(1) and 171 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b) and section 115(3) and (5) of the Immigration and Asylum Act 1999(c) make the following regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health in Pregnancy Grant (Entitlement and Amount) Regulations 2008 and shall come into force on the 1st January 2009.

(2) In these Regulations—

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

“SSCB(NI)A” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

“health professional” has the meaning given to it by regulation 3.

Conditions in relation to entitlement

2. In order for a woman to be entitled to health in pregnancy grant, she must, at the time of her claim,—

- (a) be pregnant;
- (b) have reached the 25th week of her pregnancy;
- (c) have received advice from a health professional on matters relating to her maternal health; and
- (d) have a due date on or after 6th April 2009.

(a) 1992 c.4; sections 140A and 140B were inserted by section 131 of the Health and Social Care Act 2008 (c. 14), and section 175 amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
(b) 1992 c.7; sections 136A and 136B were inserted by section 134 of the Health and Social Care Act 2008, and section 171 amended by the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671).
(c) 1999 c. 33; section 115 was amended by section 138(2) of the Health and Social Care Act 2008.

Meaning of “health professional”

3. “Health professional” in section 140A(5) SSCBA and section 136A of SSCB(NI)A means a person who provides maternity care to the woman and who is either—

- (a) a practicing midwife, who is registered with the Nursing and Midwifery Council; or
- (b) an obstetrician or General Practitioner, who is registered with the General Medical Council.

Circumstances in which a woman is to be treated as not being in Great Britain or Northern Ireland - general

4.—(1) For the purposes of section 140A(3)(b) of SSCBA, a woman is to be treated as not being in Great Britain if—

- (a) she is not ordinarily resident in the United Kingdom, or
- (b) she does not have a right to reside in the United Kingdom.

(2) For the purposes of section 136A of SSCB(NI)A, a woman is to be treated as not being in Northern Ireland if—

- (a) she is not ordinarily resident in the United Kingdom, or
- (b) she does not have a right to reside in the United Kingdom.

(3) A woman who is in the United Kingdom as a result of deportation, expulsion or other removal by compulsion of law from another country to the United Kingdom shall be treated as being ordinarily resident in the United Kingdom.

Crown servants posted overseas

5.—(1) For the purposes of section 140A(3)(b) of SSCBA, a woman is to be treated as being in Great Britain if she is a Crown servant posted overseas.

(2) A Crown servant posted overseas is a person performing overseas (but not in Northern Ireland) the duties of any office or employment under the Crown who—

- (a) immediately prior to her posting or her first of consecutive postings, was ordinarily resident in the United Kingdom; or
- (b) immediately prior to her posting or her first of consecutive postings, was in the United Kingdom in connection with that posting.

Partners of Crown servants posted overseas

6.—(1) The partner of a Crown servant posted overseas will be treated as being in Great Britain if, at the time of her claim—

- (a) she is in the country where the Crown servant is posted; and
- (b) she is accompanying the Crown servant.

(2) In paragraph (1) “partner” has the meaning in the Health in Pregnancy (Administration) Regulations 2008(a).

Daughters of Crown servants posted overseas

7. A daughter of a Crown servant posted overseas will be treated as being in Great Britain if, at the time of her claim—

- (a) she is in the country where the Crown servant is posted;
- (b) she is accompanying the Crown servant; and

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(c) child benefit is being paid in respect of her.

Amendments to the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000

8.—(1) The Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000^(a) are amended as follows.

(2) In regulation 2 (Persons not excluded from specified benefits under section 115 of the Immigration and Asylum Act 1999), in paragraph (2), after “social fund payment” insert “, health in pregnancy grant”.

(3) In the heading to Part II of the Schedule, after “Social Fund Payment” insert “, Health in Pregnancy Grant”.

Amendments to the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000

9.—(1) The Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000 are amended as follows.

(2) In regulation 2(1) (Persons not excluded from specified benefits under section 115 of the Immigration and Asylum Act 1999), after “a social fund payment” insert “, health in pregnancy grant”.

(3) In the heading to Part II of the Schedule, after “a social fund payment” insert “, health in pregnancy grant”.

Amount of Health in Pregnancy Grant

10. The amount of health in pregnancy grant shall be £190.

Tony Cunningham
Dave Watts

9th December 2008

Two of the Lords Commissioners of Her Majesty’s Treasury

(a) S.I. 2000/636.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to entitlement to health in pregnancy grant and supplement the entitlement provisions in Part 4 of the Health and Social Care Act 2008 (c. 14). They also prescribe entitlement and the amount of the grant. They make provision in relation to Great Britain and Northern Ireland.

Regulation 1 brings into force the regulations on 1st January 2009 in order that claims for health in pregnancy grant can be made on or after this date.

Regulation 2 prescribes conditions a woman must satisfy to entitle her to the grant: A woman must be pregnant when she makes her claim; and she must be at least 25 weeks pregnant. She must also have received advice on matters relating to maternal health. A woman will only be eligible for the grant if her due date is on or after 6th April 2009.

Regulation 3 prescribes the categories of health professionals from whom advice on matters relating to maternal health must be received to be entitled to the grant.

Regulations 4 to 7 qualify the requirements under section 140A(3) of the Social Security Contributions and Benefits Act 1992 and section 136A(3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, that to be entitled to the grant the woman must be in Great Britain or Northern Ireland at the time she makes a claim for the grant.

Regulation 4 provides that unless the woman is ordinarily resident in the United Kingdom and has a right to reside in the United Kingdom, she will be treated as not being in Great Britain or Northern Ireland as the case may be. Paragraph (3) provides that a woman who is in the United Kingdom only because she has been deported from another country is, nevertheless, to be regarded as ordinarily resident in the United Kingdom.

Regulation 5 treats Crown servants posted overseas as being in Great Britain. Regulations 6 and 7 also treat, respectively, the partners and daughters of those Crown servants as being in Great Britain.

Regulation 8 concerns the effect of immigration status on entitlement to the grant. Section 115 of the Immigration and Asylum Act 1999 (c. 33) excludes women subject to immigration control (as defined by that section) from entitlement to the grant. Subsection (3) of that section permits exceptions to that exclusion to be prescribed. Regulation 8 prescribes such an exception, so as to include women falling within the descriptions of persons in Part II of the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636). Regulation 9 does the same, in relation to the Social Security (Immigration and Asylum) Consequential Amendments Regulations (Northern Ireland) 2000 for women living in Northern Ireland.

Regulation 10 prescribes the amount of the grant.

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

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