

2019 No. 1064

SOCIAL SECURITY

**The Social Fund (Children’s Funeral Fund for England)
Regulations 2019**

<i>Made</i> - - - -	<i>27th June 2019</i>
<i>Laid before Parliament</i>	<i>1st July 2019</i>
<i>Coming into force</i> - -	<i>23rd July 2019</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 138(1)(a) and (4) and 175(1), (3), (4) and (5) of the Social Security Contributions and Benefits Act 1992(a), and sections 1(1) and (1C), and 5(1)(a), (i) and (j), and (1A), and 189(1), (4), (5), (5A) and (5B) of the Social Security Administration Act 1992(b).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Social Fund (Children’s Funeral Fund for England) Regulations 2019 and come into force on 23rd July 2019.

(2) Subject to paragraph (3), these Regulations extend to England and Wales only.

(3) Regulations 7 and 8 extend to England and Wales, and Scotland.

Interpretation

2. In these Regulations—

“associated expenses” means the expenses referred to in regulation 5;

“burial authority” means a person responsible for the management of a burial ground;

“claimant” means—

(a) 1992 c. 4. Section 138 was amended by section 70(1) of the Social Security Act 1998 (c. 14) and Part 8 of Schedule 14, paragraph 1, to the Welfare Reform Act 2012 (c. 5). Section 175(1) was amended by section 2 of, and Schedule 3, paragraph 29(1), (2) and (4), to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 175(4) was amended by Schedule 3, paragraph 29(4), to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 175(5) was amended by Part 1 of Schedule 1, paragraph 36, to the Social Security (Incapacity for Work) Act 1994 (c. 18). Section 138(4) is cited for the meaning of “prescribed”.

(b) 1992 c. 5. Section 1(1C) was inserted by section 19 of the Social Security Administration (Fraud) Act 1997 (c. 47). Section 5(1)(j) was amended by section 98(5) of the Welfare Reform Act 2012 (c. 5). Section 5(1A) was inserted by section 99(3) of the Welfare Reform Act 2012 (c. 5). Section 189(1) was amended by Schedule 3, paragraph 57, to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), and Schedule 6, paragraph 1, to the Tax Credits Act 2002 (c. 21). Section 189(4) was amended by S.I. 2013/252. Section 189(5A) and (5B) were inserted by section 104(1) of the Welfare Reform Act 2012 (c. 5).

- (a) with respect to claims in relation to fees charged by a burial or cremation authority, the burial authority or cremation authority in question;
 - (b) with respect to claims in relation to associated expenses, a burial authority, a cremation authority, a funeral director, or the person responsible for the purchase of a listed item;
- “cremation authority” means a person responsible for the management of a crematorium;
- “fees charged by a burial or cremation authority” means the fees referred to in regulation 4;
- “funeral” means erecting a memorial in a case where there is no body, or the burial or cremation of a body (whether or not the burial or cremation is accompanied by the erection of a memorial);
- “listed item” means an item or service referred to in regulation 4(1) or regulation 5(1);
- “qualifying age” means an age less than 18 years old.

Entitlement

3.—(1) A claimant is entitled to a Children’s Funeral Fund payment in relation to a funeral, where—

- (a) the deceased was—
 - (i) of qualifying age at the time of death; or
 - (ii) a stillborn child as defined in section 41 of the Births and Deaths Registration Act 1953(a), born after the 24th week of pregnancy;
- (b) the funeral takes place in England on or after 23rd July 2019; and
- (c) were it not for these Regulations, those fees or expenses would be chargeable to a person involved in the organisation of the funeral.

(2) Section 1(1A) of the Social Security Administration Act 1992(b) (the requirement to provide evidence of a national insurance number in order to make a claim) is disapplied in relation to a claim for a Children’s Funeral Fund payment.

(3) Subject to regulation 6, a claimant may be awarded more than one Children’s Funeral Fund payment in relation to a funeral.

(4) In this regulation, a “Children’s Funeral Fund payment” means a payment out of the social fund(c) in the amount of any fees charged by a burial or cremation authority or of any associated expenses.

Fees charged by a burial or cremation authority

4.—(1) Fees charged by a burial or cremation authority are—

- (a) where the deceased is buried—
 - (i) the fees for obtaining a burial plot and a right of burial for the deceased in that plot, whether or not that right is exclusive;
 - (ii) the fees levied in respect of a burial by the burial authority or the person responsible for the provision and maintenance of cemeteries for the area where the burial takes place;
- (b) where the deceased is cremated—
 - (i) the fees levied in respect of the cremation by the cremation authority or person responsible for the provision and maintenance of crematoria for the area where the cremation takes place;

(a) 1953 c. 20. There are no relevant amendments to this provision.

(b) Section 1(1A) was inserted by section 19 of the Social Security Administration (Fraud) Act 1997 (c. 47).

(c) The social fund is defined in section 167 of the Social Security Administration Act 1992 (c. 5).

- (ii) fees levied for a private post mortem examination where this is necessary for the cremation to be authorised;
- (c) the fees levied for the scattering of ashes;
- (d) the fees levied for the burial of ashes;
- (e) the fees levied for the storage of ashes in a columbarium or similar receptacle until the point where the deceased, if alive, would have ceased to be of qualifying age;
- (f) the fees levied in respect of obtaining permission to erect a memorial;
- (g) where it is a condition of the right of burial, the maintenance fees of the place of burial until the point where the deceased, if alive, would have ceased to be of qualifying age;
- (h) fees levied for renewal of the right of exclusive use of the burial plot until the point where the deceased, if alive, would have ceased to be of qualifying age;
- (i) any other fees the Secretary of State considers to be appropriate.

(2) Fees charged by a burial or cremation authority are limited to what the Secretary of State considers to be reasonable in the circumstances.

(3) Fees charged in accordance with paragraph (1) must not include any element which relates exclusively to a requirement of the religious faith of the deceased or the family of the deceased.

Associated expenses

5.—(1) Associated expenses are—

- (a) where the deceased is buried, the fees levied by a private grave-digger, inclusive of the fees levied for the removal and replacement of headstones and kerbing;
- (b) where the deceased is cremated—
 - (i) the fees payable for the removal of any active implantable medical device as defined in regulation 2 of the Medical Devices Regulations 2002^(a) save that, where that removal is carried out by a person who is not a registered medical practitioner no more than £20 may be met in respect of that removal;
 - (ii) the fees levied for the completion of cremation certification;
- (c) the price of a coffin, shroud, or casket in which the deceased is buried or cremated;
- (d) the price of an appropriate receptacle for storage of cremated remains where the receptacle in which the cremated remains are returned is unsuitable for this purpose.

(2) Associated expenses are limited to what the Secretary of State considers to be reasonable in the circumstances.

(3) Associated expenses charged in accordance with paragraph (1) must not include any element which relates exclusively to a requirement of the religious faith of the deceased or the family of the deceased.

Provisions against double payment

6.—(1) No payment may be made for a listed item under these Regulations where a payment has already been made under these Regulations for that listed item in relation to the same funeral.

(2) No payment may be made for a listed item under these Regulations if—

- (a) a payment for the listed item has been made in respect of funeral expenses arising from the death of the same person under the Social Fund Maternity and Funeral Expenses (General) Regulations 2005^(b); or

^(a) S.I. 2002/618; there are no relevant amending instruments.

^(b) S.I. 2005/3061; the relevant amending instrument is S.I. 2018/61.

- (b) a payment for the listed item has been made in respect of funeral expenses arising from the death of the same person under Regulations made under section 34 of the Social Security (Scotland) Act 2018(a),

unless the amount paid under those Regulations is less than the total amount charged for the listed item, in which case a payment may be made for an amount not exceeding the remainder of the amount charged for the listed item.

Amendment of the Social Fund Maternity and Funeral Expenses (General) Regulations 2005

7.—(1) The Social Fund Maternity and Funeral Expenses (General) Regulations 2005 are amended as follows.

- (2) After regulation 4(2) (provision against double payment: funeral expenses)(b) insert—

“(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.”.

Amendment of the Social Security (Claims and Payments) Regulations 1987

8.—(1) The Social Security (Claims and Payments) Regulations 1987(c) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of social fund funeral payment after “Social Fund Maternity and Funeral Expenses (General) Regulations 2005” insert “, including social fund payments made under The Social Fund (Children’s Funeral Fund for England) Regulations 2019”.

Edward Argar
Parliamentary Under Secretary of State
Ministry of Justice

27th June 2019

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish the Children’s Funeral Fund for England (CFF) as part of the social fund. The CFF will pay the fees charged by burial and cremation authorities and some associated expenses related to the funerals of children below the age of 18 and still-born children born after 24 weeks’ gestation, when the funeral takes place in England. Payment is non-means tested, and has no nationality or residence requirement.

Regulation 1 provides that the Regulations come into force on 23rd July 2019. The Regulations extend to England and Wales only, except for the regulations 7 and 8 that amend the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 (S.I. 2005/3061) and the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968), which also extend to Scotland.

Regulation 3 defines the circumstances in which a claimant may be entitled to a payment from the CFF in relation to a funeral. The fees charged by a burial or cremation authority or associated expenses must be incurred in relation to a funeral of a person who had not yet attained the age of 18, or was still-born after a 24-week gestation period. The funeral must take place in England on or after 23rd July 2019, and the fees and expenses must be those that would otherwise be

(a) 2018 asp 9.

(b) Relevant amending instrument is S.I. 2010/2760.

(c) S.I. 1987/1968; the relevant amending instrument is S.I. 2018/61.

chargeable to a person involved in the organisation of the funeral. It also removes the requirement to provide evidence of a national insurance number in order to receive payment from the CFF.

Regulation 4 defines “fees charged by a burial or cremation authority” for the purpose of these Regulations. The amount to be paid to the claimant as “fees charged by a burial or cremation authority” is limited to that which the Secretary of State considers reasonable in the circumstances. The fees shall not include elements that relate exclusively to the religious faith of the deceased or the family of the deceased.

Regulation 5 defines what “associated expenses” will be covered by the CFF. The amount to be paid to the claimant as “associated expenses” is limited to that which the Secretary of State considers reasonable in the circumstances. The expenses shall not include elements that relate exclusively to the religious faith of the deceased or the family of the deceased.

Regulation 6 prohibits more than one payment for any listed item from the CFF. It also prohibits payments for listed items for which money has been paid out under the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 or under regulations made under section 34 of the Social Security (Scotland) Act 2018 (asp 9). The exception to this is when the amount paid by either of these schemes is insufficient to reimburse the claimant for the entire price of the listed item. In those circumstances the claimant is entitled to an amount not exceeding the remainder of the price of the item.

Regulation 7 amends the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 to prevent double payment for items for which the claimant has already received payment from the CFF. The exception to this is when the amount paid out is insufficient to reimburse the claimant for the entire price of the listed item. In those circumstances the claimant is entitled to an amount not exceeding the remainder of the price of the item.

Regulation 8 amends the Social Security (Claims and Payments) Regulations 1987 to amend the definition of “social fund funeral payment” to include those made under the CFF.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

© Crown copyright 2019

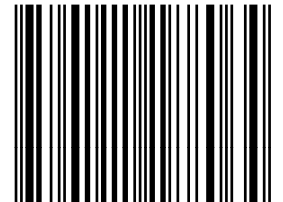
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.

£4.90

UK201906281012 07/2019 19585

<http://www.legislation.gov.uk/id/uksi/2019/1064>

ISBN 978-0-11-118806-4



9 780111 188064