STATUTORY RULES OF NORTHERN IRELAND

1997 No. 155

SOCIAL SECURITY

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

Made - - - -	*14th March 1997*
Coming into operation	*7th April 1997*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 134(1)(*a*) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**) and sections 5(1)(*a*) and 165(1), (3) and (4) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Social Fund and Claims and Payments) (Miscellaneous Amendments) Regulations (Northern Ireland) 1997 and shall come into operation on 7th April 1997.

(2) In these Regulations—

"the Claims and Payments Regulations" means the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**3**);

"the Social Fund Regulations" means the Social Fund (Maternity and Funeral Expenses) (General) Regulations (Northern Ireland) 1987(**4**).

(3) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to a Measure of the Assembly.

Amendment of the Social Fund Regulations

2.—(1) The Social Fund Regulations shall be amended in accordance with paragraphs (2) to (7).

(**1**) 1992 c. 7
(**2**) 1992 c. 8
(**3**) S.R. 1987 No. 465; relevant amending Regulations are S.R. 1996 No. 432
(**4**) S.R. 1987 No. 150; relevant amending Regulations are S.R. 1988 Nos. 6 and 22, S.R. 1989 No. 71, S.R. 1992 No. 394, S.R. 1994 No. 68, S.R. 1995 No. 190 and S.R. 1996 Nos. 423 and 571
(**5**) 1954 c. 33 (N.I.)

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of "the Order" there shall be inserted the following definition—

""absent parent" means a parent of a child who has died or of a still-born child where—

(a) the parent was not living in the same household with the child at the date of that child's death or at the date the child was still-born; and

(b) that child had at the date of death, or would have had, his home with a person who was responsible for that child for the purposes of Part IX of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;";

(ii) after the definition of "funeral payment" there shall be inserted the following definition—

""immediate family member" means a parent, son or daughter;";

(iii) after the definition of "a person affected by a trade dispute" there shall be inserted the following definition—

""prescribed time for claiming" means the appropriate period during which a maternity payment or, as the case may be, a funeral payment, may be claimed pursuant to regulation 19(1) of, and Schedule 4 to, the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(**6**);";

(iv) in the definition of "responsible person"(**7**) for "6(1)(*b*)" there shall be substituted "6(1)(*a*)";

(b) for paragraph (1A)(**8**) there shall be substituted the following paragraph—

"(1A) For the purposes of Part III, persons are to be treated as members of the same household where those persons—

(a) are married to each other and are living in the same residential accommodation, residential care home or nursing home as defined for the purposes of the Income Support Regulations or, as the case may be, of the Jobseeker's Allowance Regulations; or

(b) were partners immediately before either or both or any or all of those persons moved permanently into such accommodation or home as is referred to in sub-paragraph (*a*),

and that person is or, as the case may be, those persons are resident in such accommodation or home at the date of death of the person in respect of whom a funeral payment is claimed.".

(3) In regulation 3 (provision against double payment)—

(a) in paragraph (2) after "in question" there shall be added "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(**9**) (parental orders)";

(b) in paragraph (3) after "in question" there shall be added "or in respect of any other funeral expenses arising from the death of the same person".

(4) In regulation 4 (entitlement to a maternity payment)—

(**6**) Paragraph 9 was amended by regulation 2(6) of S.R. 1996 No. 432
(**7**) Definition of "responsible person" was amended by regulation 2(*b*) of S.R. 1994 No. 68
(**8**) Paragraph (1A) was inserted by regulation 2(3) of S.R. 1996 No. 423
(**9**) 1990 c. 37

(a) in paragraph (1)—

(i) at the end of sub-paragraph (*b*)(ii) for "and" there shall be substituted "or";

(ii) in sub-paragraph (*b*) after head (ii) there shall be inserted the following head—

"(iii) the claimant and the claimant's spouse have been granted an order in respect of a child pursuant to section 30 of the Human Fertilisation and Embryology Act 1990 (parental orders); and";

(iii) in sub-paragraph (*c*)(**10**) for the words from "period" to the end there shall be substituted "prescribed time for claiming a maternity payment";

(b) in paragraph (2)(**11**) after sub-paragraph (*c*) there shall be added the following sub-paragraph—

"(d) where the claim is made after an order referred to in paragraph (1)(*b*)(iii) has already been granted in respect of a child, £100 in respect of that child.".

(5) For regulation 6(**12**) (entitlement to a funeral payment) there shall be substituted the following regulations—

"**Entitlement**

6.—(1) Subject to paragraphs (2) to (7), regulation 7 and to Parts IV and V, 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 referred to as "the responsible person"), at the date of the claim for a funeral payment has an award of income support, income-based jobseeker's allowance, family credit, disability working allowance or housing benefit;

(b) the funeral of the deceased takes place in the United Kingdom or, providing the deceased was normally resident in Northern Ireland, in the Republic of Ireland;

(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,

(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*) refers at the date of death,

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 (Northern Ireland) Act 1992, at the date of death, or, as the case may be, a parent of that still-born child,

(iii) in a case where heads (i) and (ii) 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—

(**10**) Sub-paragraph (*c*) was amended by regulation 3(1)(*b*) of S.R. 1988 No. 22
(**11**) Paragraph 2 was substituted by regulation 3(*b*) of S.R. 1992 No. 394
(**12**) Regulation 6 was amended by S.R. 1988 Nos. 6 and 22, S.R. 1992 No. 6, S.R. 1995 No. 190 and S.R. 1996 Nos. 423 and 571

(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*) 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 or young offender's centre 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 (Northern Ireland) 1975(**13**) or, as the case may be, the Social Security (Hospital In-Patients) Regulations 1975(**14**) 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 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 contract with the deceased, any such close relative was—

(a) in closer contact with the deceased than the responsible person;

(**13**) S.R. 1975 No. 109; relevant amending Regulations are S.R. 1992 No. 453
(**14**) S.I.1975/555; relevant amending instrument is S.I. 1992/2595