EXPLANATORY MEMORANDUM TO

THE SOCIAL FUND (MATERNITY AND FUNERAL EXPENSES) AMENDMENT REGULATIONS 2013

2013 No. 247

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

The purpose of this instrument is to make amendments to the Social Fund (Maternity and Funeral Expenses) Regulations 2005 http://www.legislation.gov.uk/uksi/2005/3061/contents/made to enable Universal Credit to act as a gateway to the Sure Start Maternity Grant and Funeral Payment schemes, subject to the other qualifying conditions. It also makes consequential changes to simplify the Funeral Payment scheme primarily due to the introduction of Universal Credit. In addition further changes have been made to the Funeral Payment scheme due to the abolition of Council Tax Benefit as outlined in the Welfare Reform Act 2012.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

This instrument makes changes to the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 (SI No 2005/3061) as a result of the introduction of Universal Credit and the abolition of Council Tax Benefit. It allows Universal Credit to act as a gateway to both the Sure Start Maternity Grant and the Funeral Payment schemes, reflects the Universal Credit approach to polygamy and ensures that final benefit payments due to the deceased are disregarded as an available asset of the deceased when calculating a funeral payment award. In addition following the abolition of Council Tax Benefit consequential amendments are required to ensure that Council Tax Benefit is removed as a gateway to the Funeral Payment scheme.

5. Territorial Extent and Application

This instrument applies to Great Britain. Equivalent provision will be made for Northern Ireland by statutory rules.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The Social Fund Maternity and Funeral Expenses Regulations must be amended due to the introduction of Universal Credit and the abolition of Council Tax Benefit from 1st April 2013. The amendments primarily allow Universal Credit to act as a gateway to both the Sure Start Maternity Grant and Funeral Payment scheme, subject to other eligibility conditions and reflect the Universal Credit approach to polygamy.

7.2 With regards to polygamy, people in receipt of one of the income-related benefits (i.e. Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance and Pension Credit) who are members of a polygamous marriage are currently treated (and will continue to be treated) as one single family unit with second and subsequent wives treated as dependants. Under Universal Credit, second or subsequent wives will be treated as either single people or lone parents if there are children. The regulations will be amended from 1st April to ensure that each scheme follows the benefit rules applicable to the claimant. For example, with regards to the Sure Start Maternity Grant scheme, if the claimant is in receipt of Jobseeker's Allowance and he and his first wife already have a young child, a Sure Start Maternity Grant will not be paid for subsequent children born to his second wife who is treated as part of his family unit. However, if a claimant is in receipt of Universal Credit and he and his wife already have a young child, the second wife will not be prevented from accessing a Sure Start Maternity Grant if she has a child and she has no other children under 16 in her family. It should be noted that there are approximately only 100 cases of people in polygamous marriages in receipt of benefits nationally, and therefore the impact will be negligible.

7.3 Two other amendments are being made in relation to the Funeral Payment scheme, to take account of the abolition of Council Tax Benefit and Universal Credit periodicity.

7.4 Abolition of Council Tax Benefit – This benefit currently acts as a gateway to the funeral payment scheme, subject to other criteria that must be satisfied. Council Tax Benefit will however be abolished from 1st April 2013 and in its place local authorities will instead offer local provision which is neither a benefit nor a tax credit and which will be outside the social security system. Eligibility conditions for this new provision will also vary throughout the country. Consequential amendments are therefore required to remove Council Tax Benefit as a gateway to the Funeral Payment scheme.

7.5 Universal Credit Payment Periods - The Funeral Payment rules currently ensure that any available asset of the deceased, including any final payment of benefit due after the death of the deceased, is taken into account when calculating a Funeral Payment award. However, if this particular rule is carried forward when Universal Credit is introduced, then claimants in receipt of benefits, whether that is Universal Credit or one of the existing income-related benefits, may be prevented from receiving an award. This is for two reasons. Housing Benefit is currently paid direct to landlords and therefore is not an available asset of the deceased. Similarly mortgage payments are not available as they are paid direct to the lender. This changes following the

introduction of Universal Credit, as housing costs will be included as part of the Universal Credit award, thus becoming an available asset of the deceased to be deducted from the Funeral Payment award even though the housing costs must still be paid. In addition, as Universal Credit is to be paid calendar monthly, payments will be significantly larger than current benefit payments. If the regulations are not amended, Funeral Payments are likely to be reduced to zero. The change allows final benefit arrears to be disregarded and simplifies the rules.

- ***Consolidation***

7.6 Consolidation of the existing regulations is not proposed but 'The Law Relating to Social Security' (The Blue Volumes) provides a consolidated version of the regulations and will incorporate the amendments made by this instrument. This publication is available free of charge on the internet at (http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security).

8. Consultation outcome

8.1 A formal consultation exercise has not been undertaken as these changes are required as a direct consequence of measures in the Welfare Reform Act 2012 which will introduce Universal Credit as a new benefit and abolishes Council Tax Benefit. Both of these were subject to a full consultation.
http://www.dwp.gov.uk/policy/welfare-reform/legislation-and-key-documents/universal-credit/

8.2 The regulations have been considered by the Social Security Advisory Committee which approved the regulations without requiring a formal referral.

9. Guidance

Guidance on the changes will be provided (in the form of an internal memorandum) to decision makers prior to the regulations coming into force. Claim forms and leaflets will also be amended to reflect these changes and information on GOV.UK will be updated when the regulations come into force.

10. Impact

10.1 There is no impact on business or civil society organisations.

10.2 The impact on the public sector is negligible.

10.3 An impact assessment has not been published for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring and review

There are plans to monitor the impact of this policy once Universal Credit has been embedded.

13. Contact

Andrea Teale at the Department for Work and Pensions Tel: 0113 232 7801 or email: Andrea.Teale@dwp.gsi.gov.uk can answer any queries regarding the instrument.