STATUTORY INSTRUMENTS

1988 No. 36

SOCIAL SECURITY

The Social Fund Maternity and Funeral Expenses (General) Amendment Regulations 1988

Made - - - -	*14th January 1988*
Laid before Parliament	*18th January 1988*
Coming into force	*11th April 1988*

The Secretary of State for Social Services, in exercise of the powers conferred on him by sections 32(2)(a) and 84(1) of the Social Security Act 1986(**a**) by this instrument which is made before the end of a period of 12 months from the commencement of the enactments under which it is made, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Fund Maternity and Funeral Expenses (General) Amendment Regulations 1988 and shall come into force on 11th April 1988.

(2) In these Regulations "the principal Regulations" means the Social Fund Maternity and Funeral Expenses (General) Regulations 1987 (**b**).

Amendment of regulation 3 of the principal Regulations

2.—(1) Regulation 3 of the principal Regulations (interpretation) shall be amended in accordance with paragraphs (2) to (5) below.

(2) The following definition shall be added to paragraph (1) in that Regulation at the beginning of the list of definitions–

" "the Act" means the Social Security Act 1986;"

(3) The definitions of the following terms in paragraph (1) in that Regulation shall be omitted–

"family income supplement"

"housing benefit"

"single payment of supplementary benefit"

"supplementary benefit".

(4) For the definition of "person affected by a trade dispute" in paragraph (1) in that Regulation there shall be substituted the following definition–

" "person affected by a trade dispute" means a person–

(a) to whom section 23 of the Act applies or

(b) to whom that section would apply if a claim to income support were made by or in respect of him;"

(**a**) 1986 c.50; section 32(2)(a) was amended by section 1 of the Social Fund (Maternity and Funeral Expenses) Act 1987 (c.7) and section 84(1) is an interpretation provision and is cited only for the definitions of "prescribed" and "regulations".

(**b**) S.I. 1987/481.

(5) For paragraph (2) of that Regulation there shall be substituted the following paragraph–

"(2) For the purposes of these Regulations, two persons are to be treated as being or not being members of the same household in the circumstances set out in regulation 16(2) and (3) of the Income Support (General) Regulations 1987(**a**)."

Amendment of regulation 5 of the principal Regulations

3.—(1) In regulation 5(1) of the principal Regulations (entitlement to payments for maternity expenses) for sub-paragraph (a) there shall be substituted the following sub-paragraph–

"(a) the claimant or the claimant's partner has, in respect of the date of the claim for a maternity payment, been awarded either income support or family credit; and"

and in sub-paragraph (c) for the words from "in regulation 7" to the end of that sub-paragraph there shall be substituted "in regulation 19 of, and Schedule 4 to, the Social Security (Claims and Payments) Regulations 1987(**b**)."

(2) For paragraph (2) of regulation 5 of the principal Regulations (amount of maternity payment) there shall be substituted the following paragraph–

"(2) Subject to Part IV of these Regulations, the amount of a maternity payment shall be–

(a) where the claim is made on or after 11th April 1988 and before the confinement, £85 in respect of each expected child, but if the claim was made on an earlier date, £80 in respect of each expected child;

(b) where the claim is made after the confinement, if that confinement has ended on or after 11th April 1988, £85 in respect of each child, including any child who is stillborn, but if the confinement has ended before that date, £80 in respect of each child, including any child who is stillborn;

(c) where the claim is made after a child has been adopted and the adoption has taken place on or after 11th April 1988, £85 in respect of that child, but if the adoption has taken place before that date, £80 in respect of that child."

Amendment of regulation 6 of the principal Regulations

4. In regulation 6 of the principal Regulations (persons affected by a trade dispute) in paragraph (a) for the words "supplementary benefit" there shall be substituted "income support" and in paragraph (b) for the words "family income supplement" there shall be substituted "family credit".

Amendment of regulation 7 of the principal Regulations

5. In regulation 7(1) of the principal Regulations (entitlement to payments for funeral expenses)–

(a) for sub-paragraph (a) there shall be substituted the following sub-paragraph–

"(a) the claimant or the claimant's partner has, in respect of the date of the claim for a funeral payment, been awarded either income support, family credit or housing benefit; and"

(b) in sub-paragraph (d) for the words from "in regulation 7" to the end of that sub-paragraph there shall be substituted "in regulation 19 of, and Schedule 4 to, the Social Security (Claims and Payments) Regulations 1987."

Amendment of regulation 9 of the principal Regulations

6. For paragraph (2) of regulation 9 of the principal Regulations (effect of capital) there shall be substituted the following paragraph–

"(2) In calculating the amount of the claimant's capital for the purposes of paragraph (1)–

(a) any capital possessed by any person whose capital is treated as that of the claimant by virtue of section 22(5) of the Act or the provisions of regulation

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(**a**) S.I. 1987/1967. (**b**) S.I. 1987/1968.

23(3) of the Income Support (General) Regulations 1987 (calculation of income and capital) shall be treated as that of the claimant;

(b) any capital specified in regulation 47 of, and Schedule 10 to, those Regulations (capital disregards) shall be disregarded;

(c) any sum acquired by the claimant (whether as a loan or otherwise) on the express condition that it is to be used to meet the funeral expenses in respect of which the claim is made shall be disregarded;

(d) in the case of a claim for a maternity payment or a funeral payment which is made within 12 months of the death of the husband of the claimant, any lump sum payable to that claimant as a widow by virtue of section 24 of the Social Security Act 1975 (**a**) shall be disregarded;

(e) the amount of any payment out of capital, other than capital disregarded under sub-paragraphs (b) to (d) above, which has already been made towards the funeral expenses (whether the expenses are within the scope of regulation 7(2) or not) shall be added back to that capital as if the payment had not been made."

Amendment of regulation 10 of the principal Regulations

7. For regulation 10 of the principal Regulations (assessment of capital) the following regulation shall be substituted–

"**10.** The amount of any capital which is taken into account for the purposes of regulation 9 shall be calculated as if it were capital to which regulation 46 of the Income Support (General) Regulations 1987 (**b**) applied."

Signed by authority of the Secretary of State for Social Services.

Michael Portillo
Parliamentary Under-Secretary of State,
Department of Health and Social Security

14th January 1988

(**a**) Section 24 was substituted by section 36(1) of the Social Security Act 1986.
(**b**) S.I. 1987/1967.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Fund Maternity and Funeral Expenses (General) Regulations 1987 (the principal Regulations).

Regulations 2, 3(1), 4, 5 and 7 of these Regulations respectively amend regulations 3 (interpretation), 5 (entitlement to a maternity payment), 6 (persons affected by a trade dispute), 7 (entitlement to a funeral payment) and 10 (assessment of capital) of the principal Regulations in consequence of the coming into force of new schemes made under the Social Security Act 1986 for income support, family credit and housing benefit.

Regulations 3(1) and 5(a) also simplify the requirement as to the time at which a person must be on a qualifying benefit in order to be entitled to a maternity or funeral payment. Regulation 3(2) of these Regulations prescribes £85 instead of £80 for maternity payments by further amending regulation 5 of the principal Regulations. Regulation 6 of these Regulations, by amending regulation 9 of the principal Regulations (effect of capital), also makes new provision for disregarding capital borrowed to pay for funeral costs.

These Regulations are made under provisions of the Social Security Act 1986 which have not yet been in force for twelve months; they are, accordingly, exempt by section 61(5) of the Social Security Act 1986 from reference to the Social Security Advisory Committee and have not been so referred.

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