This statutory instrument revokes and replaces an earlier instrument with the same title (S.I. 1986/2173) which was invalidly made; it is being issued free of charge to all known recipients of the earlier instrument.

STATUTORY INSTRUMENTS

1987 No. 481

SOCIAL SECURITY

The Social Fund Maternity and Funeral Expenses (General) Regulations 1987

Made - - - -	*19th March 1987*
Laid before Parliament	*19th March 1987*
Coming into force -	*6th April 1987*

ARRANGEMENT OF REGULATIONS

PART I

General

1. Citation and commencement
2. Revocation
3. Interpretation
4. Provision against double payment

PART II

Payments for Maternity Expenses

5. Entitlement to a maternity payment
6. Persons affected by a trade dispute

PART III

Payments for Funeral Expenses

7. Entitlement to a funeral payment
8. Deductions from an award of a funeral payment

PART IV

Effect of Capital

9. Effect of capital
10. Assessment of capital

[SS87/1691]

PART V

Transitional Provisions

11. Interpretation of Parts V and VI

12. Transitional arrangements—maternity payments

13. Transitional arrangements—funeral payments

PART VI

Consequential Amendments

14. Amendment of the Single Payments Regulations

15. Amendment of the Trade Disputes Regulations

16. Amendment of the Urgent Cases Regulations

The Secretary of State for Social Services, in exercise of the powers conferred on him by sections 32(2)(a), 84(1) and 89(1) of the Social Security Act 1986(**a**) and as regards the consequential amendments in Part VI of these Regulations, by sections 3, 4 and 34 of the Supplementary Benefits Act 1976(**b**), and of all other powers enabling him in that behalf, by this instrument which contains only regulations made under, and provisions consequential on, the sections of the Social Security Act 1986 specified above and which is made before the end of a period of 12 months from the commencement of those sections, makes the following Regulations:–

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Social Fund Maternity and Funeral Expenses (General) Regulations 1987 and shall come into force on 6th April 1987.

Revocation

2. The Social Fund Maternity and Funeral Expenses (General) Regulations 1986(**c**) are hereby revoked.

Interpretation

3.—(1) In these Regulations unless the context otherwise requires–

"child" means a person under the age of 16;

"claimant" means a person claiming a social fund payment in respect of maternity or funeral expenses;

"confinement" means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead;

"family" means–

(a) a married or unmarried couple and any children who are members of the same household and for whom one of the couple is or both are responsible;

(b) a person who is not a member of a married or unmarried couple and any children who are members of the same household and for whom that person is responsible;

(c) persons who are members of the same household and between whom there

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(**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**) 1976 c.71, as amended by section 6(1) of and Part I of Schedule 2 to the Social Security Act 1980 (c.30); in section 34 *see* the definitions of "prescribed" and "regulations".

(**c**) S.I. 1986/2173.

is a polygamous relationship and any children who are also members of the same household and for whom a member of the polygamous relationship is responsible;

"family income supplement" means a supplement under section 1 of the Family Income Supplements Act 1970(**a**);

"funeral" means a burial or a cremation;

"funeral payment" is to be construed in accordance with regulation 7;

"housing benefit" means a rate rebate, rent rebate or rent allowance payable under a scheme made under section 28 of the Social Security and Housing Benefits Act 1982(**b**) including a scheme as modified in accordance with section 30 of that Act;

"married couple" means a man and a woman who are married to each other and are members of the same household;

"maternity payment" is to be construed in accordance with regulation 5;

"partner" means one of a married or unmarried couple or a member of a polygamous relationship;

"occupational pension scheme" has the same meaning as in the Social Security Pensions Act 1975(**c**);

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

(a) to whom section 8 of the Supplementary Benefits Act 1976 applies; or

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

"responsible member" is to be construed in accordance with regulation 7(1)(b);

"single payment of supplementary benefit" means a single payment to meet an exceptional need under section 3 of the Supplementary Benefits Act 1976;

"supplementary benefit" means a pension or allowance under section 1 of the Supplementary Benefits Act 1976, or under section 4 of that Act, but only in the cases specified in regulations 11, 12, 16, 17 and 19 to 22 of the Supplementary Benefit (Urgent Cases) Regulations 1981(**d**);

"unmarried couple" means a man and a woman who are not married to each other but are living together as husband and wife.

(2) For the purposes of these Regulations, two persons who are a married or unmarried couple shall be treated as being or, as the case may be, as having ceased to be members of the same household in the circumstances set out in regulation 2(2) and (3) of the Supplementary Benefit (Aggregation) Regulations 1981(**e**).

(3) For the purposes of these Regulations, a person shall be treated as a member of a polygamous relationship where, but for the fact that the relationship includes more than two persons, he would be one of a married or unmarried couple.

(4) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

Provision against double payment

4.—(1) Subject to paragraph (2), no maternity payment shall be made under these Regulations if such a payment has already been made in respect of the child in question.

(2) Notwithstanding that a maternity payment has been made to the natural mother of a child or to one of her family, a second such payment may, subject to the following provisions of these Regulations, be made to the adoptive parents of the child in question.

(3) No funeral payment shall be made under these Regulations if such a payment has already been made in respect of the funeral expenses in question.

(**a**) 1970 c.55.
(**b**) 1982 c.24.
(**c**) 1975 c.60; *see* section 66(1).
(**d**) S.I. 1981/1529; the relevant amending instruments are S.I. 1982/907 and 914, 1983/1000 and 1984/938.
(**e**) S.I. 1981/1524, as amended by S.I. 1984/938.

PART II

PAYMENTS FOR MATERNITY EXPENSES

Entitlement

5.—(1) Subject to regulation 6 and Parts IV and V of these Regulations, a payment to meet maternity expenses (referred to in these Regulations as a "maternity payment") shall be made only where–

(a) the claimant or the claimant's partner is, in respect of the period during which the claim for a maternity payment is made, in receipt of either supplementary benefit or family income supplement; and

(b) either–

(i) the claimant or, if the claimant is a member of a family, one of the family is pregnant or has given birth to a child; or

(ii) the claimant or the claimant's partner or both of them have adopted a child not exceeding the age of twelve months at the date of the claim; and

(c) the claim is made within the period specified for such a claim in regulation 7 of the Social Fund Maternity and Funeral Expenses (Claims and Payments) Regulations 1986(a).

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

(a) where the claim is made before the confinement, £80 in respect of each expected child;

(b) where the claim is made after the confinement, £80 in respect of each child, including any child who is stillborn;

(c) where the claim is made after a child has been adopted, £80 in respect of that child.

Persons affected by a trade dispute

6. Where the claimant or the claimant's partner is a person affected by a trade dispute, a maternity payment shall be made only if–

(a) in the case where the claimant or the claimant's partner is in receipt of supplementary benefit, the trade dispute has, at the date of the claim for that payment, continued for not less than six weeks; or

(b) in the case where the claimant or the claimant's partner is in receipt of family income supplement, the claim in respect of which family income supplement was awarded was made before the beginning of the trade dispute.

PART III

PAYMENTS FOR FUNERAL EXPENSES

Entitlement

7.—(1) Subject to regulation 8 and Parts IV and V of these Regulations, a social fund payment to meet funeral expenses (referred to in these regulations as a "funeral payment") shall be made only where–

(a) the claimant or his partner is, in respect of the period during which the claim for a funeral payment is made, in receipt of supplementary benefit, family income supplement or housing benefit; and

(b) the claimant or, if he is a member of a family, one of his family takes responsibility for the costs of a funeral (in these Regulations referred to as the "responsible member"); and

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(a) S.I. 1986/2172.

(c) the funeral takes place in the United Kingdom; and

(d) the claim is made within the period specified for such a claim in regulation 7 of the Social Fund Maternity and Funeral Expenses (Claims and Payments) Regulations 1986.

(2) Subject to regulation 8 and Part IV of these Regulations, the amount of a funeral payment shall be an amount sufficient to meet any of the following essential expenses which fall to be met by the responsible member:–

(a) the cost of any necessary documentation;

(b) the cost of an ordinary coffin;

(c) the cost of transport for the coffin and bearers and one additional car;

(d) the reasonable cost of flowers from the responsible member;

(e) undertaker's fees and gratuities, chaplain's, organist's and cemetery or crematorium fees for a simple funeral;

(f) the cost of any additional expenses arising from a requirement of the religious faith of the deceased, not in excess of £75;

(g) where the death occurred away from the deceased's home, the costs of transporting the body within the United Kingdom to that home or to the undertaker's premises or to a chapel of rest; and

(h) the reasonable travelling costs of one return journey within the United Kingdom by the responsible member in connection with either the arrangement of or attendance at the funeral.

Deductions from an award of a funeral payment

8. There shall be deducted from the amount of any award which would, but for this regulation, be made under regulation 7 the following amounts:–

(a) the amount of any assets of the deceased which are available to the responsible member (on application or otherwise) or any other member of his family without probate or letters of administration having been granted;

(b) the amount of any lump sum due to the responsible member or any other member of his family on the death of the deceased by virtue of any insurance policy, occupational pension scheme, or burial club or any analogous arrangement;

(c) the amount of any contribution which has been received by the responsible member or any other member of his family from a charity or a relative of his or of the deceased, but only to the extent that that amount or, if more than one contribution has been received, the aggregate of such amounts exceeds the cost of any funeral expenses other than those specified in regulation 7(2);

(d) the amount of any funeral grant, made out of public funds, in respect of the death of a person who was entitled to a war disablement pension(a).

PART IV

EFFECT OF CAPITAL

Effect of capital

9.—(1) Where a claimant has any capital which is in excess of £500, any maternity payment or funeral payment which would, but for this regulation, be payable shall be payable only to the extent that the amount of the payment would otherwise exceed the amount by which that capital exceeds that £500.

(a) *See* section 84(1) of the Social Security Act 1986 (c.50) for a definition of "war disablement pension".

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

(a) any capital possessed by any member of the claimant's family or any other person whose resources are or would be treated as those of the claimant by virtue of the provisions of paragraph 3(2) of Schedule 1 to the Supplementary Benefits Act 1976 (aggregation of dependants' requirements and resources) shall be treated as that of the claimant;

(b) any capital specified in regulation 6(1) of the Supplementary Benefit (Resources) Regulations 1981**(a)** shall be disregarded; and

(c) the amount of any payment out of capital, other than capital disregarded under the preceding sub-paragraph, 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.

Assessment of capital

10. The amount of any capital which is taken into account for the purposes of regulation 9 shall be calculated and assessed as if it were capital to which regulation 5 of the Supplementary Benefit (Resources) Regulations 1981 applied.

PART V

TRANSITIONAL PROVISIONS

Interpretation of Parts V and VI

11. In this Part and Part VI of these Regulations–

"the Single Payments Regulations" means the Supplementary Benefit (Single Payments) Regulations 1981**(b)**;

"the Trade Disputes Regulations" means the Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations 1980**(c)**;

"the Urgent Cases Regulations" means the Supplementary Benefit (Urgent Cases) Regulations 1981**(d)**.

Transitional arrangements—maternity payments

12.—(1) Subject to paragraph (2), no maternity payment shall be made in the case where the confinement or adoption occurred before 6th April 1987.

(2) Subject to paragraph (3), a maternity payment may be made, so long as the claimant satisfies the conditions of Part II of these Regulations, in respect of a confinement or adoption which occurred on or after 9th March 1987 but only if the claimant or his partner was or would have been, had a claim been made, entitled to supplementary benefit for any period including 9th March 1987 or beginning after that date which falls before the coming into operation of these Regulations.

(3) No maternity payment shall be made in a case where, in respect of the same confinement or adoption, the claimant or his partner has received or is entitled to a single payment of supplementary benefit by virtue of regulation 7 of the Single Payments Regulations or an additional requirement was applicable by virtue of Regulation 7 of the Trade Disputes Regulations.

(a) S.I. 1981/1527; the relevant amending instruments are S.I. 1982/1125, 1126, 1983/1240, 1984/1102 and 1985/1246.
(b) S.I. 1981/1528; the relevant amending instruments are S.I. 1982/907, 1983/1000, 1630, 1984/938 and 1986/1259.
(c) S.I. 1980/1641; the relevant amending instruments are S.I. 1981/815, 1985/1016 and 1986/1259.
(d) S.I. 1981/1529; the relevant amending instrument is S.I. 1986/1259.

(4) The amount of a maternity payment shall be reduced by the amount of an award, in respect of the same confinement, of a maternity grant under section 21 of the Social Security Act 1975(a).

Transitional arrangements—funeral payments

13.—(1) Subject to paragraph (2) no funeral payment shall be made where the deceased died before 6th April 1987.

(2) Subject to paragraph (3) a funeral payment may be made, so long as the claimant satisfies the conditions of regulation 7, where the deceased died on or after 9th March 1987 but only if the claimant or his partner was or would have been, had a claim been made, entitled to supplementary benefit for any period including 9th March 1987 or beginning after that date which falls before the coming into operation of these Regulations.

(3) No funeral payment shall be made in the case where, in respect of the same funeral, the claimant or his partner has received or is entitled to a single payment of supplementary benefit by virtue of regulation 8 of the Single Payments Regulations or an additional requirement was applicable by virtue of regulation 7A of the Trade Disputes Regulations.

(4) The amount of a funeral payment shall be reduced by the amount of an award, in respect of the same funeral, of a death grant under section 32 of the Social Security Act 1975(b) unless that grant has been spent on any item in respect of which a funeral payment would otherwise have been made.

PART VI

CONSEQUENTIAL AMENDMENTS

Amendment of the Single Payments Regulations

14.—(1) The Single Payments Regulations shall be amended in accordance with the following provisions of this regulation.

(2) Regulations 7 and 8 shall be revoked.

(3) In regulation 22(1) (travelling expenses) sub-paragraph (i) shall be deleted.

Amendment of the Trade Disputes Regulations

15. Regulations 7 and 7A of the Trade Disputes Regulations shall be revoked.

Amendment of the Urgent Cases Regulations

16. Paragraph 8 of Schedule 1 to the Urgent Cases Regulations shall be deleted.

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

John Major
Minister of State, Department of Health and Social Security.

19th March 1987

(a) 1975 c.14; section 21 is repealed with effect from 6th April 1987 by sections 38 and 86(2) of the Social Security Act 1986.
(b) 1975 c.14; section 32 is repealed with effect from 6th April 1987 by sections 41 and 86(2) of the Social Security Act 1986.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Social Fund Maternity and Funeral Expenses (General) Regulations 1986 (regulation 2); and make provisions under section 32(2)(a) of the Social Security Act 1986, as amended by section 1 of the Social Fund (Maternity and Funeral Expenses) Act 1987 for payments (whether in respect of prescribed amounts or otherwise) in prescribed circumstances to be made out of the social fund established by the Social Security Act 1986 to meet maternity expenses and funeral expenses (referred to in the Regulations as "maternity payments" and "funeral payments" respectively).

In Part I regulations 1 and 3 are formal and contain interpretation provisions. Regulation 4 provides that two payments shall not be made in respect of the same expenses.

Part II deals with maternity payments. Regulation 5 prescribes the circumstances in which such payments are to be made and the appropriate amount. Regulation 6 sets out special rules on entitlement which apply to persons affected by a trade dispute.

Part III makes provision for funeral payments. Regulation 7 sets out the circumstances in which funeral payments are to be made. Regulation 8 prescribes certain deductions from such a payment.

Regulations 9 and 10 (Part IV) make provision as to the effect of any capital possessed by the claimant for a social fund payment or his family and how such capital is to be calculated.

Parts V and VI contain transitional provisions and consequential amendments to the Supplementary Benefit (Single Payments) Regulations 1981, the Supplementary Benefit (Trade Disputes and Recovery from Earnings) Regulations 1980 and the Supplementary Benefit (Urgent Cases) Regulations 1981.

These Regulations are made either under or in consequence of 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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