



STATUTORY INSTRUMENTS.

S.I. No. 333 of 2012



SOCIAL WELFARE (EMPLOYERS' PAY-RELATED SOCIAL
INSURANCE EXEMPTION SCHEME) REGULATIONS 2012

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I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by section 4 (amended by section 96 of the Ministers and Secretaries (Amendment) Act 2011 (No. 10 of 2011)) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005) and by section 13(9) of that Act, with the consent of the Minister for Finance, given after consultation with the Minister for Public Expenditure and Reform, hereby make the following Regulations:

Citation.

1. These Regulations may be cited as the Social Welfare (Employers' Pay-Related Social Insurance Exemption Scheme) Regulations 2012.

Definitions.

2. In these Regulations—

“additional employee” has the meaning assigned to it in article 3;

“Back to Work Allowance scheme” means the scheme administered by the Minister and known as Back to Work Allowance;

“Employer Job (PRSI) Incentive Scheme” means the Employers' Pay-Related Social Insurance Exemption Scheme referred to in section 13(9) of the Principal Act;

“exemption certificate” means a document, signed by an officer of the Minister, granting an exemption to an employer from the liability to pay an employment contribution specified in section 13(2)(d) of the Principal Act;

"Principal Act" means the Social Welfare Consolidation Act 2005;

“Regulations of 2003” means the Social Welfare (Employers' Pay-Related Social Insurance Exemption Scheme) Regulations, 2003 (S.I. No. 452 of 2003);

“tax clearance certificate” means a certificate issued by the Collector-General under section 1095 (inserted by section 127(b) of the Finance Act 2002 and amended by section 156 of the Finance Act 2010) of the Taxes Consolidation Act 1997.

Additional employee.

3. (1) Subject to article 4, a person who commences employment shall be regarded as an additional employee for the purposes of these Regulations where—

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 7th September, 2012.

- (a) in the period of 7 days immediately before the date of commencement of that employment, that person was—
- (i) in receipt of—
 - (I) jobseeker's benefit,
 - (II) jobseeker's allowance,
 - (III) one-parent family payment, or
 - (IV) disability allowance,

or
 - (ii) participating in or, as appropriate, attending at—
 - (I) the scheme administered by the Minister and known as the national internship scheme and receiving a payment made in respect of participation in that scheme,
 - (II) the work placement programme within the meaning of section 142B(3) of the Principal Act and receiving one of the payments referred to in paragraph (a)(i) of this sub-article,
 - (III) the scheme provided by the Minister and known as Community Employment and receiving a payment made in respect of participation in that scheme,
 - (IV) the scheme administered by the Minister and known as the Rural Social Scheme and receiving a payment made in respect of participation in that scheme,
 - (V) the scheme administered by the Minister and known as Tús and receiving a payment made in respect of participation in that scheme,
 - (VI) the scheme administered by the Minister and known as Back to Education Allowance and receiving a payment made in respect of participation in that scheme, or
 - (VII) a training course provided or approved of by An Foras Áiseanna Sothair and receiving a payment made in respect of such attendance,

where that person—

 - (A) was in receipt of a payment referred to in clauses (I) to (IV) of subparagraph (i) immediately before participation in such scheme or programme or attendance at such training course commenced, and

(B) would continue to satisfy the conditions for entitlement to that payment immediately before the date of commencement of that employment, but for that person's participation in such scheme or programme or attendance at such training course,

and

- (b) in the 12 month period immediately before the date of commencement of that employment, that person was—
- (i) in receipt of a payment referred to in clauses (I) to (IV) of paragraph (a)(i),
 - (ii) participating in the work placement programme within the meaning of section 142B(3) of the Principal Act and receiving one of the payments referred to in paragraph (a)(i) of this sub-article, or
 - (iii) participating in a scheme referred to in clause (I), (III), (IV), (V) or (VI) of paragraph (a)(ii) or attending at a training course referred to in clause (VII) of paragraph (a)(ii) and receiving a payment made in respect of participation in that scheme or attendance at such training course,

for an aggregate period of at least 156 days.

(2) In the case of a person to whom paragraph (a) of sub-article (1) applies, where illness benefit is paid in respect of a period of incapacity for work which occurs—

- (a) during any period of—
- (i) receipt of any benefit, allowance or payment referred to in clauses (I) to (IV) of subparagraph (i) of sub-article (1)(a), or
 - (ii) participation in any scheme or programme or attendance at a training course referred to in subparagraph (ii) of sub-article (1)(a),

and

- (b) within the 12 month period immediately before the date of commencement of employment referred to in sub-article (1),

such period of incapacity for work shall be taken into account in calculating the aggregate period of at least 156 days for the purposes of paragraph (b) of sub-article (1).

PRSI exemption for employers.

4. (1) Subject to these Regulations, an employer who employs an additional employee during the period beginning on 1 January 2012 and expiring on 31

December 2012 shall be exempt from the liability to pay an employment contribution specified in section 13(2)(d) of the Principal Act in respect of that additional employee for a period of 18 months beginning on the date of commencement of employment by that additional employee with that employer, where—

- (a) the employment of such additional employee constitutes an increase in the total number of people employed in that employer's workforce above the total number of people so employed on either the first day or the last day, whichever is the greater number, of the 3 month period immediately before the date of commencement of employment by that additional employee,
- (b) the additional employee is employed and remunerated by that employer for at least 30 hours per week, and
- (c) the employer makes application for such exemption to the Minister.

(2) For the purposes of sub-article (1)(b), the number of hours worked per week by an additional employee shall be calculated or estimated by reference to the average number of hours worked during any 4 week period that may be determined by an officer of the Minister to be appropriate for that purpose.

(3) Subject to article 5(1), an exemption granted under sub-article (1) of this article shall apply for the period specified in an exemption certificate issued to the employer in respect of an additional employee.

(4) Sub-article (1) shall not apply where—

- (a) the employer is a public service body within the meaning of section 1 of the Financial Emergency Measures in the Public Interest Act 2009 (No. 5 of 2009),
- (b) the additional employee would raise the proportion of the employer's employed workforce availing of the Employer Job (PRSI) Incentive Scheme to more than 5% of the employed workforce or 5 employees, whichever is the greater,
- (c) an application made by an employer under this article is not accompanied by a valid tax clearance certificate held by the employer, or
- (d) in the opinion of an officer of the Minister—
 - (i) such employment does not constitute an increase in the total number of people employed in that employer's workforce above the total number of people so employed on either the first day or the last day, whichever is the greater number, of the 3 month period immediately before the date of commencement of employment by that additional employee, and

(ii) such employment will not be sustained for more than 6 months.

Cessation of employment by additional employee.

5. (1) Where an additional employee ceases to be employed by the employer to whom an exemption has been granted under article 4(1) within a period of less than 6 months following the granting of that exemption—

- (a) the exemption from liability to pay an employment contribution specified in section 13(2)(d) of the Principal Act shall cease to apply to that employer from the date of cessation of the employment of that additional employee, and
- (b) the employer shall be liable to pay such an employment contribution in respect of any payments made to or for the benefit of that additional employee in respect of the reckonable earnings of that additional employee during such period of less than 6 months.

(2) The requirement in sub-article (1)(b) for an employer to pay an employment contribution specified in section 13(2)(d) of the Principal Act in respect of an additional employee who ceases to be employed within a period of 6 months following the granting of an exemption under article 4(1) shall not apply where, having regard to circumstances of the case, an officer of the Minister decides that it is not appropriate.

Participants of Back to Work Allowance.

6. Notwithstanding the revocation of the Regulations of 2003, an employer of an employee who is entitled to or in receipt of a payment in respect of participation in the Back to Work Allowance scheme in any contribution week shall be exempt from the liability to pay an employment contribution specified in section 13(2)(d) of the Principal Act in respect of that contribution week where—

- (a) an exemption from the liability to pay an employment contribution specified in section 13(2)(d) of the Principal Act had been granted under article 3 of the Regulations of 2003 on or before 3 June 2010 by virtue of that employee's participation in the Back to Work Allowance scheme,
- (b) that employee continues to be entitled to or in receipt of a payment in respect of participation in the Back to Work Allowance scheme, and
- (c) the total period of the exemption from the liability to pay an employment contribution specified in section 13(2)(d) of the Principal Act that has been granted to the employer in respect of that employee does not exceed 2 years.

The Minister for Finance, following consultation with the Minister for Public Expenditure and Reform, consents to the making of the foregoing Regulations.



GIVEN under my Official Seal,
31 August 2012.

MICHAEL NOONAN,
Minister for Finance.



GIVEN under my Official Seal,
31 August 2012.

JOAN BURTON,
Minister for Social Protection.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations provide for the continuation of the operation of the Employer Job (PRSI) Exemption Scheme during 2012 and for an extension to the categories covered. Private sector employers who take on additional employees during 2012 are exempted from having to pay the employer's portion of the PRSI contribution in respect of the earnings paid to those additional employees. The period of exemption is being increased from 12 to 18 months. The job must be new, additional, be for at least 30 hours a week and last for at least 6 months.

In addition to the categories of people regarded as additional employees for the purposes of the Exemption Scheme that operated during 2011, i.e. people receiving certain social welfare payments for 6 months or more immediately before taking up employment — jobseeker's benefit, jobseeker's allowance, one-parent family payment or disability allowance, and participants on the Work Placement Programme, these Regulations provide for an extension of the Scheme to a number of new categories. Periods of participation on JobBridge will also count towards eligibility, as will similar periods of participation on Community Employment, the Rural Social Scheme, Tús, the Back to Education Allowance and FÁS training courses. This will mean that eligible persons, such as JobBridge and Work Placement Programme participants, may be employed directly from those schemes once the required 6 month qualifying period has been satisfied.

These Regulations provide that periods of casual employment while the person is also in receipt of a jobseekers payment will count towards satisfying the 6 month qualifying period, as will breaks in jobseekers payments etc. or participation in employment and training schemes as a result of periods of illness during which illness benefit is paid.

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Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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