

Family Employments & PRSI

Who pays Social Insurance (PRSI)?

With very few exceptions, all people aged 16 or over and under pensionable age must pay PRSI if they are:

- employees, whether full-time or part-time earning €38 or more a week,
- self-employed workers with an income of €5,000 or more a year from all sources.

In return, they are covered for a range of Social Insurance benefits and pensions (see page 3 for details of the benefits covered under the main PRSI Classes).

Exceptions to this general rule apply in the case of certain 'Family Employment'. This term is used to describe a situation in which a self-employed sole trader or businessperson either employs, or is assisted in the running of the business, by a spouse/civil partner or by other family member(s).

Employment by a Limited Company or a business partnership is not 'Family Employment' because the employment relationship is with the Limited Company or the business partnership, rather than the individual family member(s).

Family Employments that Are covered for Social Insurance

The following categories of 'Family Employment' are insurable under the Social Insurance system in exactly the same way as employments that have no family connection:

- If you are employed as an employee by a 'prescribed relative'* and the employment is **not** related to a private dwelling house or a farm in or on which both you and the employer reside (PRSI Class A or Class J applies).

- If you are employed as an **Apprentice** by a 'prescribed relative'* (even if the apprenticeship employment **does** relate to a private dwelling house or a farm in or on which both you and the employer resides). There must be a registered Contract of Apprenticeship involved (PRSI Class A or Class J applies).
- If you assist your spouse or civil partner in the running of the family business but are not an employee (PRSI Class S applies).

*** A 'Prescribed relative' is a parent, grandparent, stepparent, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, or half sister.**

Family Employments that Are Not covered for Social Insurance (PRSI)

The following categories of 'Family Employment' are the exceptions that **are not** covered by the Social Insurance system:

- If you are employed as an employee by your spouse.
- If you are employed as an employee by a 'prescribed relative' and the family employment relates to a private dwelling house or a farm in or on which both you and the employer reside.
- If you are not a spouse or civil partner and you assist or participate in the running of the family business but not as an employee (such as a son/daughter who is attending full-time education and who participates in the business, for example, helps out on a farm after school hours but is not an employee).

Note

(1) PRSI Class M is used to record situations in which there is a nil contribution liability.

(2) Subject to certain conditions, if you cease to be covered by compulsory PRSI you may opt to become insured on a voluntary basis and pay Voluntary Contributions.

For more information on Voluntary Contributions, please see SW8.

Point to remember

'Employed as an employee' means that you are employed in the family business under the same terms and conditions as a worker who is not a relative. You would, for example, be subject to control, direction and dismissal by the employer, receive a salary and holiday pay and have no control over the running of the business.

Limited Companies and partnerships

If the business is a Limited Company or partnership it is a separate legal entity. Employment in such a business is not 'Family Employment'. This is because the employment relationship is with the Limited Company or partnership rather than the individual family member who owns or runs it.

Limited Company

If you work for a Limited Company that is owned by a spouse or a family member, the PRSI you pay is determined by the circumstances of your employment.

- If employed as an employee you are insurable (PRSI Class A or J applies).
- If you are **not** an employee but participate in the running of the company or if you hold a directorship/shareholding position and have control over its operations, you **may** be treated as a self-employed contributor. PRSI Class S applies if you have reckonable income of at least €5,000 a year from 2011 (previously €3,174) from all sources.

From 1 July 2013, proprietary directors who own or control 50% of more of the shareholding of a company, either directly or indirectly, are classified as self-employed and liable to pay PRSI at Class S. The classification of proprietary directors who own or

control less than 50% of the shareholding of the company will continue to be determined on a case by case basis, taking into consideration the Code of Practice for Determining the Employment or Self-employment Status of Individuals.

For more information, log on to www.welfare.ie.

The key question is whether or not you are employed as an employee. The factors that are taken into account in deciding this matter are quite complex.

A limited company is a separate legal entity.

Partnerships

Two or more family members who operate a business as a Partnership and share the profits may be insurable as self-employed contributors at PRSI Class S, provided each has a reckonable income of at least €5,000 a year from 2011 (previously €3,174 a year) from all sources.

The following points should be noted:

- The Partnership **must** be genuine and supported by appropriate documentary evidence such as, the existence of joint business accounts with banks, etc. There should also be evidence that business activities are in joint names including invoices, mart, creamery accounts, cash and carry accounts, farm grant applications, herd numbers, business insurance policies, etc.
- The most important indicator of the existence of a business partnership is the sharing of profits (or losses). Income Tax returns of each partner showing their shares of the profits should be available. In the case of married couples making income tax returns under joint or separate assessment, the income of each must be shown.
- The Income Tax returns should be correctly made on a current year basis, applications for the backdating of Partnership status are not accepted.

Note

PRSI contributions are calculated on the basis of income details contained in Income Tax returns.

Issued by:
Information Services
Department of Social Protection
Social Welfare Services
College Road
Sligo

For more information:

- Log on to www.welfare.ie.
- LoCall Information Line **1890 66 22 44** or if calling from outside the Republic of Ireland please call **+353 71 91 93302**.
- Drop in to your local Citizens Information Centre, your local Intreo Centre or your local Social Welfare Office.

Decisions and Appeals

If you are unsure of your social insurance position, you may write to and request a formal decision from:

Scope Section

Department of Social Protection
Floor 1
Oisín House
212-213 Pearse Street
Dublin 2
Telephone: (01) 673 2585

This process involves, firstly an investigation into the terms and conditions of the employment, which is followed by a formal decision made by a deciding officer under Social Welfare legislation.

If you are dissatisfied with the decision made by a deciding officer there is a right of appeal (within 21 days) to:

The Chief Appeals Officer

Social Welfare Appeals Office
D'Olier House
D'Olier Street
Dublin 2

LoCall: 1890 74 74 34

The Social Welfare Appeals Office is an independent body that deals with appeals against Social Welfare decisions.

Benefits covered

- **Class A** - All social insurance benefits and pensions.
- **Class S** - State Pension (Contributory), Widow's, Widower's or Surviving Civil Partner's Contributory Pension, Guardian's Payment, Maternity Benefit and Adoptive Benefit.
- **Class J** - Occupational Injuries Benefit only.
- **Class M** - In certain circumstances Occupational Injuries Benefits may be payable. Class M is for people with a Nil contribution liability.

Summary of PRSI and Family Employment

Type of family employment	PRSI position
• Employed by a spouse	Not insurable Class M
• Assisting a "Prescribed Relative" or Spouse in running the business	Not insurable Class M
• Employed by a 'Prescribed Relative'	
a) In the family home or farm where both parties reside	Not insurable Class M
b) Not in the family home or farm where both parties reside	Insurable Class A or J
c) As an Apprentice	Insurable Class A or J

This leaflet is intended as a guide only and is not a legal interpretation.