



STATUTORY INSTRUMENTS.

S.I. No. 514 of 2014



SOCIAL WELFARE (CONSOLIDATED CONTRIBUTIONS AND
INSURABILITY) (AMENDMENT) (NO. 6) (RETURN OF
CONTRIBUTIONS) REGULATIONS 2014

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I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by sections 4 (adapted by the Social and Family Affairs (Alteration of Name of Department and Title of Minister) Order 2010 (S.I. No. 186 of 2010)) and 37 (amended by section 7 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013 (No. 20 of 2013)) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), hereby make the following Regulations:

Citation and construction

1. (1) These Regulations may be cited as the Social Welfare (Consolidated Contributions and Insurability) (Amendment) (No. 6) (Return of Contributions) Regulations 2014.

(2) These Regulations and the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 to 2014 shall be construed together as one and may be cited together as the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 to 2014.

Interpretation

2. In these Regulations “Principal Regulations” means the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996).

Definition for purposes of Principal Regulations

3. Article 3 of the Principal Regulations is amended by substituting the following definition for the definition of “reckonable income” (amended by article 4 of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2012 (S.I. No. 229 of 2012)):

“reckonable income”—

- (a) in relation to a voluntary contributor, means all income derived from any employment, including any trade, business, profession, office or vocation and such reckonable income shall include share-based remuneration realised, acquired or appropriated, as the case may be, on or after 1 January 2011, and
- (b) in relation to a self-employed contributor, an optional contributor or, subject to Chapter 5B of Part 2 of the Act of 2005, a person

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 18th November, 2014.*

to whom that Chapter of that Part applies, has the meaning assigned to it by section 2(1) of the Act of 2005;”.

Return of contributions — maintenance arrangements

4. The Principal Regulations are amended by substituting the following article for article 72B (amended by article 3 of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) (Refunds) Regulations 2002 (S.I. No. 268 of 2002)):

“Return of contributions — maintenance arrangements

72B. (1) In this article 'maintenance' means a payment made under or pursuant to a maintenance arrangement—

- (a) within the meaning of section 1025 of the Act of 1997 relating to a marriage, where the maintenance arrangement is for the benefit of the other party to the marriage, unless section 1026 of that Act applies in respect of the payment,
- (b) within the meaning of section 1031J of the Act of 1997 relating to a civil partnership, where the maintenance arrangement is for the benefit of the other party to the civil partnership, unless section 1031K of that Act applies in respect of that payment, or
- (c) within the meaning of section 1031Q of the Act of 1997 relating to a relationship between cohabitants, where the maintenance arrangement is for the benefit of the other cohabitant to the relationship.

(2) Subject to these Regulations, where in any contribution year—

- (a) an employment contribution is paid by an employed contributor,
- (b) a self-employment contribution is paid by a self-employed contributor,
- (c) an optional contribution is paid by an optional contributor,
- (d) a voluntary contribution is paid by a voluntary contributor,
- (e) a contribution under Chapter 5A of Part 2 of the Act of 2005 is paid by a person to whom that Chapter of that Part applies, or
- (f) a contribution under Chapter 5B of Part 2 of the Act of 2005 is paid by a person to whom that Chapter of that Part applies,

and that contributor has also paid maintenance in that contribution year, an amount, calculated in accordance with this article, of such contribution may be returned to that contributor if application to that effect is made in writing to the Minister within such time as he or she may determine.

(3) The amount to be returned to a contributor to whom sub-article (2) applies shall be the amount of the contribution that was paid by that contributor in that contribution year in respect of the portion of his or her reckonable earnings, reckonable emoluments, reckonable income or remuneration (within the meaning of section 30A of the Act of 2005), as appropriate, that corresponds to the amount of maintenance paid in that contribution year and such amount shall, subject to sub-articles (4) and (5), be calculated in accordance with the formula—

$$M \times R$$

where—

M is the amount of maintenance paid in that contribution year, and

R is the highest rate of contribution paid by the contributor in that contribution year.

(4) Where the amount of maintenance paid in a contribution year exceeds the amount of reckonable earnings, reckonable emoluments, reckonable income or remuneration (within the meaning of section 30A of the Act of 2005), as appropriate, to which the highest rate of contribution applies in that contribution year, the amount to be returned to a contributor to whom sub-article (2) applies shall be calculated in accordance with the formula—

$$(A \times H) + (E \times N)$$

where—

A is the amount of reckonable earnings, reckonable emoluments, reckonable income or remuneration (within the meaning of section 30A of the Act of 2005), as appropriate, to which the highest rate of contribution applies in that contribution year,

H is the highest rate of contribution paid by the contributor in that contribution year,

E is the portion of reckonable earnings, reckonable emoluments, reckonable income or remuneration (within the meaning of section 30A of the Act of 2005), as appropriate, that corresponds to the amount of the maintenance paid in that contribution year which exceeds A, and

N is the next highest rate of contribution paid by the contributor in that contribution year.

(5) Where the amount of maintenance paid in a contribution year exceeds the aggregate amount of reckonable earnings, reckonable emoluments, reckonable income or remuneration (within the meaning of section 30A of the Act of 2005), as appropriate, to which the highest rate and next highest rate of contribution applies in that contribution year, the amount to be

returned to a contributor to whom sub-article (2) applies in relation to that further excess shall be calculated by reference to the portion of his or her reckonable earnings, reckonable emoluments, reckonable income or remuneration (within the meaning of section 30A of the Act of 2005), as appropriate that corresponds to the amount of the maintenance paid in that contribution year which exceeds the aggregate of A and E (within the meaning of sub-article (4)) and the next highest rate of contribution paid in that contribution year and any further excess shall be calculated in like manner.

(6) Notwithstanding sub-articles (3) to (5), where the return of an amount of contributions in accordance with this article would have the effect of reducing the amount of voluntary contributions, self-employment contributions or optional contributions paid by that contributor below the minimum amount of such contribution applicable in that contribution year in his or her case, the amount of such contributions to be returned in that contribution year shall be the difference between the said minimum amount and the amount calculated in accordance with sub-articles (3) to (5).”.



GIVEN under my Official Seal,
13 November 2014.

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.)

Section 7 of the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013 provides for a number of amendments to the Social Welfare Consolidation Act 2005 to take account of the provisions of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, including an extension of the provisions for refunds of PRSI contributions in respect of payments made under a maintenance arrangement to include maintenance arrangements which are for the benefit of a party to a civil partnership or a cohabitant.

These Regulations amend the provisions of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996) to extend the refund arrangements which apply in respect of PRSI contributions paid by contributors in respect of maintenance payments which are for the benefit of married persons. The refund arrangements will now include refunds of PRSI contributions paid by contributors in respect of maintenance payments which are for the benefit of civil partners and cohabitants.

The amount of PRSI to be refunded in any contribution year is calculated by reference to the amount of PRSI paid on the portion of that person's reckonable earnings, reckonable income, reckonable emoluments or remuneration, as appropriate, which corresponds to the amount of the maintenance paid in that contribution year.

Where PRSI is paid at more than one rate during a contribution year (for example, where a person is both a self-employed contributor and an optional contributor), the amount to be refunded is calculated by reference to the highest rate of PRSI contribution paid in that year.

Where the amount of that person's reckonable earnings, reckonable income, reckonable emoluments or remuneration, as appropriate, on which the highest rate of PRSI contribution has been paid in that contribution year is less than the amount of maintenance paid, the refund is calculated by reference to the aggregate of—

- (a) the amount of PRSI paid at the highest rate,
- (b) the amount of PRSI paid at the next highest rate,

and so forth, until the total amount of that person's reckonable earnings, reckonable income, reckonable emoluments or remuneration, as appropriate, equals the total amount of maintenance paid in that contribution year.

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