



STATUTORY INSTRUMENTS.

**S.I. No. 229 of 2012**



SOCIAL WELFARE (CONSOLIDATED CONTRIBUTIONS AND  
INSURABILITY) (AMENDMENT) REGULATIONS 2012

SOCIAL WELFARE (CONSOLIDATED CONTRIBUTIONS AND  
INSURABILITY) (AMENDMENT) REGULATIONS 2012

I, JOAN BURTON, Minister for Social Protection, in exercise of the powers conferred on me by sections 2(1), 4 (amended by section 96 of the Ministers and Secretaries (Amendment) Act 2011 (No. 10 of 2011)) and 34A (amended by section 11 of the Social Welfare and Pensions Act 2012 (No. 12 of 2012)) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), and by sections 13, 17 (amended by section 13 of the Social Welfare Act 2011 (No. 37 of 2011)) and 25(1)(d) of the Social Welfare Consolidation Act 2005, 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 and construction.*

1. (1) These Regulations may be cited as the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2012.

(2) These Regulations and the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 to 2011 shall be read together as one and may be cited together as the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 to 2012.

*Definitions.*

2. In these Regulations—

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

“Regulations of 2010” means the Social Welfare (Consolidated Contributions and Insurability) (Amendment) Regulations 2010 (S.I. No. 684 of 2010).

*Commencement.*

3. These Regulations come into operation on 1 July 2012.

*Amendment of definitions in Part I of Principal Regulations.*

4. Article 3 of the Principal Regulations is amended—

(a) by deleting the definition of “reckonable earnings” (amended by article 4 of the Regulations of 2010),

(b) by substituting the following definition for the definition of “reckonable income” (amended by article 4 of the Regulations of 2010):

“ ‘reckonable income’, in relation to a voluntary contributor, means all income derived from any employment, including

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 3rd July, 2012.*

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

- (c) by deleting the definition of “special contributor” (amended by article 4 of the Regulations of 2010).

*Remittance of certain contributions in respect of share-based remuneration.*

5. The Principal Regulations are amended by inserting the following article after article 8:

*“Prescribed manner for remittance of certain contributions in respect of share-based remuneration.*

8A. (1) A person to whom paragraph (a) of section 13(4A) applies shall be liable to pay to the Collector-General employment contributions in accordance with section 13(2)(b) in respect of any gain so realised within 30 days of the realisation of that gain.

(2) A person to whom paragraph (b) of section 13(4A) applies shall be liable to pay to the Minister employment contributions in accordance with section 13(2)(b) in respect of any gain so realised within 30 days of the realisation of that gain.”.

*Charging of interest on arrears of contributions.*

6. The Principal Regulations are amended by substituting the following article for article 10:

*“Charging of interest on arrears of contributions.*

10. (1) Where any amount in respect of an employment contribution, including an amount estimated under the provisions of article 11 or 12, which—

- (a) an employer is liable to pay to the Collector-General or to the Minister, as the case may be, or
- (b) an employed contributor to whom paragraph (a) or (b) of section 13(4A) applies is liable to pay to the Collector-General or to the Minister, as the case may be,

is not so paid, simple interest on that amount shall be paid by the employer or the employed contributor, as the case may be, and such interest shall be calculated—

- (i) at the rate at which, for the time being, interest is chargeable on unpaid income tax under section 991 of the Act of 1997, and
- (ii) from the expiration of—

(I) the time specified in the Regulations of 2001, as applied to employment contributions, for the payment of the amount in the case of an employment contribution payable in respect of an employee in receipt of emoluments as defined in paragraph (a) in the definition of reckonable earnings in section 2(1), and

(II) the time specified in article 9 in any other case.

(2) Interest charged on employment contributions shall be collected and be recoverable by the Collector-General or, by the Minister in the case of an employment contribution payable in respect of a special contributor, and shall be accounted for by the Collector-General or the Minister, as the case may be, and paid into the Social Insurance Fund.”.

*Return of contributions — share-based remuneration.*

7. Chapter 2 of Part III of the Principal Regulations is amended—

(a) by inserting the following articles after article 71:

*“Return of certain contributions in respect of share-based remuneration.*

71A. (1) Any contributions referred to in subparagraph (i) of section 34A(1)(a) that have been paid in respect of an employed contributor or special contributor shall be returned by the Minister or Collector-General, as appropriate—

(a) to that employed contributor or special contributor, as the case may be, or

(b) to the employer of that employed contributor or special contributor in accordance with sub-article (4),

if application to that effect is made in writing to the Minister or Collector-General, as appropriate, in accordance with sub-article (7).

(2) The amount of any employment contributions to be returned under sub-article (1) to or in respect of an employed contributor or a special contributor shall be reduced by the amount of any benefit under Part 2 of the Principal Act paid to such employed contributor or special contributor (or to any other person) by reason of the payment of the employment contributions referred to in section 34A(1)(a)(i).

(3) Any contributions referred to in paragraph (b) of section 34A(1) that have been paid by an employer shall be returned by the Minister or Collector-General, as appropriate, to that employer, if application to that effect is made in writing to the Minister or Collector-General, as appropriate, in accordance with sub-article (7).

(4) Employment contributions referred to in subparagraph (i) of section 34A(1)(a) that have been paid by an employer in respect of an employed contributor or a special contributor may be returned to that employer on the receipt of an undertaking from such employer to pay that amount to the employed contributor or to the special contributor, as the case may be.

(5) Any contributions referred to in paragraph (c) of section 34A(1) that have been paid by a self-employed contributor shall be returned by the Minister or Collector-General, as appropriate, to that self-employed contributor, if application to that effect is made in writing to the Minister or Collector-General, as appropriate, in accordance with sub-article (7).

(6) The amount of any self-employment contributions to be returned under sub-article (5) to a self-employed contributor shall be reduced by the amount of any benefit under Part 2 of the Principal Act paid to such self-employed contributor (or to any other person) by reason of the payment of the self-employment contributions referred to in paragraph (c) of section 34A(1).

(7) Application for the return of—

- (a) employment contributions referred to in section 34A(1)(a)(i) that have been paid by or in respect of an employed contributor or a special contributor,
- (b) employment contributions referred to in section 34A(1)(b) that have been paid by an employer, or
- (c) self-employment contributions referred to in section 34A(1)(c) that have been paid by a self-employed contributor,

shall be made—

- (i) not earlier than the last day of the contribution year in respect of which such contributions were paid, and
- (ii) in the form for the time being approved by the Minister or the Collector-General, as appropriate, or in such other manner as the Minister or the Collector-General may accept as sufficient in the circumstances.

*Return of contributions in respect of shares forfeited.*

71B. (1) Where—

- (a) any employment contributions referred to in subparagraph (ii) of section 34A(1)(a) have been paid in respect of share-based remuneration received by way of forfeitable shares to which section 128E of the Act of 1997 refers, and

- (b) under the terms of the written contract or agreement referred to in subsection (3) of section 128E of the Act of 1997 those shares are forfeited,

then—

- (i) the employed contributor or special contributor shall, for the purposes of employment contributions payable under section 13(2)(b), be treated as if he or she did not acquire those shares in the contribution year in which those shares were acquired, and
- (ii) any employment contributions that have been paid in respect of such shares shall be returned by the Minister or Collector-General, as appropriate, to that employed contributor or special contributor, as the case may be, if application to that effect is made in writing to the Minister or Collector-General, as appropriate, in accordance with sub-article (5).

(2) The amount of any employment contributions to be returned under sub-article (1) to or in respect of an employed contributor or a special contributor shall be reduced by the amount of any benefit under Part 2 of the Principal Act paid to such employed contributor or special contributor (or to any other person) by reason of the payment of the employment contributions referred to in sub-article (1)(ii).

(3) Where—

- (a) any self-employment contributions referred to in paragraph (c) of section 34A(1) have been paid in respect of share-based remuneration received by way of forfeitable shares to which section 128E of the Act of 1997 refers, and
- (b) under the terms of the written contract or agreement referred to in subsection (3) of section 128E of the Act of 1997 those shares are forfeited,

then—

- (i) the self-employed contributor shall, for the purposes of self-employment contributions payable under section 21, be treated as if he or she did not acquire those shares in the contribution year in which those shares were acquired, and
- (ii) any self-employment contributions that have been paid in respect of such shares shall be returned by the Minister or Collector-General, as appropriate, to that self-employed contributor if application to that effect is

made in writing to the Minister or Collector-General, as appropriate, in accordance with sub-article (5).

(4) The amount of any self-employment contributions to be returned under sub-article (3) to or in respect of a self-employed contributor shall be reduced by the amount of any benefit under Part 2 of the Principal Act paid to such self-employed contributor (or to any other person) by reason of the payment of the self-employment contributions referred to in sub-article (3)(ii).

(5) Application for the return of employment contributions or self-employment contributions, as the case may be, under this article shall be made—

- (a) not earlier than the last day of the contribution year in respect of which the shares referred to in sub-article (1)(b) or (3)(b), as appropriate, are forfeited, and
- (b) in the form for the time being approved by the Minister or the Collector-General, as appropriate, or in such other manner as the Minister or the Collector-General may accept as sufficient in the circumstances.”,

and

- (b) in article 79 (amended by article 3 of the Social Welfare (Consolidated Contributions and Insurability) (Amendment) (No. 2) (Refunds) Regulations 1997 (S.I. No. 291 of 1997)), by substituting “71A, 71B, 72, 72B, 73, 75, 77 or 77A” for “73, 75, 77 or 77A” in each place where it occurs in sub-articles (1) and (2).

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



GIVEN under my Official Seal,  
27 June 2012.

MICHAEL NOONAN,  
Minister for Finance.



GIVEN under my Official Seal,  
28 June 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.)*

Section 13 of the Social Welfare Act 2011, together with sections 9, 10 and 11 of the Social Welfare and Pensions Act 2012 provide for the payment of employee PRSI contributions and self-employment contributions on certain types of share-based remuneration. As a consequence, a number of amendments are required to be made to the administrative arrangements relating to the payment and collection of PRSI contributions, which are contained in the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996).

These Regulations provide the manner for the remittance of employee PRSI contributions on certain types of share options. PRSI contributions due on any gains realised by the exercise of a right to share options in accordance with section 128 of the Taxes Consolidation Act 1997 will be liable to be paid by the employed contributor to the Collector-General, through the relevant tax on share options system. PRSI contributions due on any gains realised by the exercise of a right to share options in accordance with section 519A of the Taxes Consolidation Act 1997 (i.e. savings-related share option schemes) will be liable to be paid by the employed contributor to the Department of Social Protection, through the special collection system, where the person who realises such a gain is no longer working in the company through which those share options were provided. PRSI contributions due on any other gains realised on share options will be liable to be deducted by the employer and remitted to the Collector-General.

These Regulations also provide that PRSI contributions due to be remitted by an employed contributor to the Collector-General or to the Department of Social Protection in respect of share options will be liable to be remitted by the employed contributor within 30 days of the realisation of that gain. In addition, the late payment of PRSI contributions due on any gains realised on share options will be subject to the same interest penalties as apply in the case of the late payment of PRSI contributions generally.

Provision is also being made in these Regulations for the return of PRSI contributions paid in respect of share-based remuneration by employed contributors, special contributors, by their employers and by self-employed contributors where those contributions were not due. In addition, provision is made for refunding PRSI contributions paid on certain shares, where those shares are subsequently forfeited.

The existing provisions relating to the payment of refunds of PRSI contributions to the next of kin, where the person due the refund dies, are also being extended to cover PRSI refunds due in relation to contributions paid in respect of share-based remuneration which were not due and in the case of refunds on forfeited shares.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
CONTAE MHAIGH EO,  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)  
nó trí aon díoltóir leabhar.

---

DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased directly from the  
GOVERNMENT PUBLICATIONS SALE OFFICE  
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,  
or by mail order from  
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,  
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,  
(Tel: 01 - 6476834 or 1890 213434; Fax: 094 - 9378964 or 01 - 6476843)  
or through any bookseller.

---

€3.05

