

Relate

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The journal of developments in social services, policy and legislation in Ireland

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Supports for the self-employed

In this issue we look at the supports that are available for self-employed people – in particular at income maintenance supports, at supports available while getting started in self-employment and at measures to help small businesses access credit.

Some people may move from employment to self-employment frequently; they may even be in both at the same time. Others may move from unemployment to self-employment and vice versa. They may be unemployed in the sense of being eligible for unemployment payments while being self-employed. So, the distinctions are not always clear. If you consider yourself to be unemployed or if your earnings from self-employment are low then the June 2009 *Relate* Special Edition, on entitlements and supports for unemployed people, is also relevant.

Entitlement to benefits

As a self-employed person, you have the same rights to income maintenance payments and to other social services as everyone else. That means that you qualify for social insurance payments if you have paid the necessary PRSI (Pay Related Social Insurance). In practice you do not qualify for short-term social insurance payments such as Jobseeker's Benefit or Illness Benefit unless you have been employed in recent years. You qualify for means-tested payments if you pass the means test; how exactly means are assessed is a significant issue for self-employed people.

Paying PRSI

Self-employed people aged between 16 and 66 are, in general, liable to pay PRSI. The self-employed rate of PRSI is usually called Class S. At present, the rate is 3% of all reckonable income. There is a minimum payment of €253 per year. In general, self-employed PRSI is payable annually with your tax on a self-assessment basis.

The 3% is applied to your taxable income, including any amount which you may have paid towards a private pension scheme. You do not get PRSI relief on such contributions although you may get tax relief.

If you have been told by the Revenue Commissioners that you do not have any tax liability, you may still be liable to pay PRSI. In these circumstances you pay €157 a year directly to the Department of Social Protection.

You may also be liable for the health levy and the income levy but the rules about these are different from the rules about PRSI. If you are exempt from the health levy, you are not necessarily exempt from PRSI. For example, if you are getting a Widow's Pension or you have a medical card, you are not liable for the health levy but, if you are self-employed, you may be liable for Class S PRSI if you meet the other conditions.

Some people who may regard themselves as self-employed are exempt. You do not have to pay Class S PRSI if:

- You are a relative who helps in the business but you are not a partner in the business; so, for example, a spouse, parent or child who helps run the business may not pay PRSI
- Your total income (from self-employment plus any employment income) is less than €3,174 a year

Unearned income

Certain people who may not regard themselves as self-employed are regarded as such for the purposes of PRSI. You may be regarded as self-employed if you do not have employment income but you do have an income from investments or rents or you are receiving maintenance payments. Company directors who pay tax through the PAYE (Pay As You Earn) system are regarded as self-employed for PRSI purposes.

Employed and self-employed

If you are both employed and self-employed, then you pay PRSI in your employment and you may also be liable for Class S PRSI:

- If you are employed in the public sector and are paying Class B, C or D, you do not have to pay any PRSI on your self-employed income whether it is earned or unearned.
- If you are employed and paying Class A PRSI, you are liable for Class S PRSI on earned income from self-employment. However, if your only income from self-employment is unearned, that is, for example, rent or interest, you are not liable for Class S PRSI.

Occupational pension

If you are getting an occupational pension, you do not pay any PRSI on the pension. You may be liable for Class S PRSI on earned income but, if your only self-employed income is unearned, you are not liable.

Jobseeker's Allowance

If you are getting Jobseeker's Allowance, it is not liable for PRSI but you may be liable on any self-employed income you have.

Income which is exempt from taxation

Certain income such as the income of certain artists, childminders and income from forestry premiums and stallion fees is exempt from tax. This does not mean that it is exempt from Class S PRSI. If you have income from these sources, you are liable for PRSI if you meet the usual conditions. If you have an income of over €3,174 a year you must pay Class S PRSI. Childminders pay the flat rate of €253 a year while the others pay 3% of their income or the flat rate, whichever is the greater. These groups pay their PRSI directly to the Department of Social Protection.

Number of contributions

Class S contributions are added to your record once you have paid the full amount of PRSI due for the year in question. You are then recorded with 52 contributions. If you do not pay the full amount due, you are not recorded as having any contributions.

Voluntary contributions

If you are not required to pay Class S, for example, because you have income of less than €3,174 a year, you may opt to become a voluntary contributor. To become a voluntary contributor you must:

- Have paid at least 260 week's PRSI
- Apply within 12 months of the end of the contribution year during which you last have a paid or credited PRSI contribution
- Agree to pay voluntary contributions from the start of the contribution week that follows the week in which you leave compulsory insurance

If your last contribution is at Class S then you are liable to pay voluntary contributions at the rate of €253 a year.

Further information

PRSI for the self-employed is administered by:
Self-employment Section
Department of Social Protection
Cork Road, Waterford
Tel: (051) 356 000 or (01) 704 3000
Email: selfemployment@welfare.ie

Rights to benefits

Class S PRSI contributions give coverage for State Pension (Contributory), Widow's/Widower's Pension (Contributory), Guardian's Payment (Contributory), Maternity Benefit, Adoptive Benefit and Bereavement Grant.

Short-term benefits

As is clear from the above, Class S contributions do not give any entitlement to short-term benefits. This means that, in general, self-employed people are not entitled to Jobseeker's Benefit (JB) or Illness Benefit. If you have been employed in recent years, you may retain entitlement to some of these benefits.

Being self-employed while getting Jobseeker's Benefit

If you get Jobseeker's Benefit you may continue to do some work. However, you must have lost at least one day of employment and as a result of this loss be unemployed for at least three days out of six consecutive days. Your earnings must also have been reduced because of the loss of employment.

In certain circumstances, for example, if you were trying to start a business while you are on JB you may be able to retain the full JB and also have a small income from the self-employment. This is known as spare-time working. However, in these circumstances, you should consider applying for the Short-term Enterprise Allowance – see page 5.

Jobseeker's Allowance

If you do not earn enough from self-employment and you do not qualify for JB, you may be able to get Jobseeker's Allowance (JA) if you pass a means test.

In order to qualify, you must also be:

- Over 18 and under 66
- Unemployed and available for, capable of and genuinely seeking work
- Habitually resident

The full details about the rules governing JA are in *Relate*, Special Edition, June 2009.

Means test

If you are self-employed, you apply for JA in the normal way. In general, when you apply for JA, you are interviewed by a social welfare inspector who makes inquiries about any means you have.

The means test can be quite complex in the case of self-employed people. There are very often problems in establishing what your income actually is; there can often be a considerable delay in getting JA because of this. Other aspects of the means test such as the assessment of capital are described in *Relate*, Special Edition, June 2009.

The law on means testing for JA provides that your income in the year after you apply is taken into account. There are detailed guidelines set out by the Department of Social Protection for the assessment of means. They state that where the income in the coming 12 months is not otherwise ascertainable, and this is usually the case, the income for the last 12 months should be taken as a guide, allowing for any factors which it is known will vary.

All your earnings from self-employment are taken into account and there is no disregard. (Certain income from employment is disregarded but this is not the case with income from self-employment.) The number of days in which you are engaged in self-employment is not relevant. You could qualify for JA even if you are engaged in self-employment every day.

Earnings are assessed as gross income less work-related expenses over 12 months. Your expected annual earnings from self-employment are divided by 52 to find your weekly means from self-employment. Any expenses which you legitimately incur in the business are taken into account. You must be able to distinguish between expenses incurred in the business and expenses incurred for domestic purposes. You should have receipts, invoices, Value Added Tax (VAT) returns, audited accounts and any other evidence available for the social welfare inspector. The Department of Social Protection say that the following are the main allowable expenses but the list is not exhaustive: materials (the cost of supplies), motor running costs (portion applicable to business), depreciation of machinery or equipment, insurance relating to the business, telephone (portion applicable to business), lighting and heating (for business and not domestic use), advertising, bank charges, stationery, van leasing, labour costs and pension plan.

Supplementary Welfare Allowance

You may qualify for Supplementary Welfare Allowance while you are waiting to be assessed for JA or if you do not qualify for JA. This is payable at your local health centre.

Other benefits

You are eligible for benefits such as medical cards in the same way as employed or unemployed people. The Health Service Executive (HSE) means test is broadly similar to the social welfare means test. However, it is conducted separately. Similarly, if you are paying differential rent, the means assessment is also conducted separately. Some county councils assume a certain level of income for certain self-employed people. You can, however, show that you do not have this level if that is the case.

Becoming self-employed

If you want to become self-employed you may get help and advice from a number of agencies. You may get financial support and assistance from the City and County Enterprise Boards.

Citizensinformation.ie includes information on setting up a business. There is a guide available on the website of the Department on Social Protection, welfare.ie, called *Toil and Trouble: a guide through the maze of self-employment*. You will also find a guide to starting your own business on the website basis.ie, which provides information on matters such as forming a company, employing staff, taxation and regulation.

Enterprise Ireland provides support for high-potential, innovative, export-focused start-ups aiming to realise sales of €1m and employment of 10 or more. See enterprise-ireland.com for details.

County Enterprise Boards

There are 35 County and City Enterprise Boards (CEBs) which aim to provide support for small businesses as they start up or when they are trying to expand. That support may be provided to individuals operating as sole traders, firms and community groups. The projects must have the capacity to be commercially viable. The boards give priority to enterprises in the manufacturing or internationally-traded services sector. The priorities for CEBs in 2010 are to assist owner/managers in enhancing the survival and sustainability of their businesses and to assist people wishing to start their own business including those who have been made redundant.

The sort of help which the CEBs may provide includes an initial *First Stop Shop* service where you may receive advice on the steps involved in setting up a business, financial supports, training and mentoring. At least part of the grant you receive is refundable. The boards may take preference shares in companies.

Financial supports

For 2010, CEBs have a total budget of €28.3 million; almost €15 million of this is allocated for capital expenditure. The allocation to each individual CEB is decided by the Central Coordination Unit, which is based within Enterprise Ireland. Each gets a standard allocation and then an allocation that is determined mainly by population but which also takes account of issues such as local unemployment trends, capacity to spend, existing commitments and regional spread.

The financial supports which the CEBs provide include grants for feasibility studies and the provision of financial support for the establishment of new businesses or expansion of existing ones.

Your project may get grant aid from the CEB if you can show that:

- It is in the commercial sphere
- There is a market for the product/service
- It has a capacity for growth and new job creation
- It employs not more than 10 people

In general, CEBs do not support businesses in sectors such as retail, personal services, professional services and construction. The CEB takes into account the sector of the economy in which an enterprise is operating or intends to operate and the size or proposed size of the enterprise.

The sort of expenditure which attracts grant aid does not include mobile assets such as commercial vehicles. It does include the following:

- Capital items including fit-out of workspace, office equipment, machinery, computer costs
- Salary costs for first year of employment
- Rental/accommodation costs for first year of the project
- Utility costs including installation costs for telephone and broadband
- Marketing costs including packaging, brochures, trade fairs, website design and development, patent fees and other marketing initiatives
- Consultancy costs including design fees, architect, accountant and legal fees
- Business training costs for key personnel

There are three types of grant aid available from the CEBs, described below.

Feasibility/innovation grant

A feasibility/innovation grant is available to help with the cost of pre-start-up studies carried out to assess demand for a new product or service, the appropriateness of funding plans and the general viability of the venture. The maximum grant payable for the Southern and Eastern region is 50% of the investment or €20,000, whichever is the lesser. The maximum grant payable for the BMW (Border, Midland and Western) Region is 60% of the investment or €20,000, whichever is the lesser.

Priming grant

A priming grant is a start-up grant which may be available within the first 18 months of start-up. The maximum priming grant is 50% of the investment or €150,000, whichever is the lesser. Grants over €80,000 are exceptional and apply only in the case of projects that clearly demonstrate a potential to graduate to Enterprise Ireland and/or to export internationally. There is a limit of €15,000 for each full-time job created.

Business expansion/development grant

A business expansion/development grant may be available for further growth. If you have received a priming grant, you are not eligible again for 18 months afterwards. The maximum is 50% of the investment or €150,000 whichever is the lesser and, again, a grant of more than €80,000 is exceptional.

Further information

The County and City Enterprise Boards website is at enterpriseboards.ie.

The CEBs come under the remit of the Department of Enterprise, Trade and Innovation, entemp.ie.

Specific economic areas

The following organisations may be able to help you if you are proposing to start a business in their areas.

Bord Bia: Food and drink companies looking for export assistance (bordbia.ie)

Bord Iascaigh Mhara: Sea fishing and aquaculture companies looking for export assistance (bim.ie)

Fáilte Ireland: companies in the tourism industry (failteireland.ie)

Teagasc: businesses in the agri-food industry (teagasc.ie)

Údarás na Gaeltachta: Companies located in the Gaeltacht area (udaras.ie)

Enterprise Allowance Schemes

There are two social welfare schemes to help people who are getting social welfare payments become self-employed – Short-term Enterprise Allowance and Back to Work Enterprise Allowance. Both are administrative schemes so they are not governed by social welfare legislation.

Under both schemes, you must first have your self-employment project approved as viable and sustainable. In Partnership areas this is done by the Partnership Company. In non-Partnership areas it is done by the Department of Social Protection's local facilitator.

Approval normally involves an interview to assess the viability of the proposed project, to provide advice on funding or on Start Your Own Business courses and other relevant aspects. Your project may be recommended for approval if it is deemed likely to succeed and will not displace existing similar businesses.

If you have previously availed of the scheme you may qualify again after five years, provided you meet the other conditions.

Short-term Enterprise Allowance

Short-term Enterprise Allowance is a scheme which applies to people who are recently unemployed and entitled to Jobseeker's Benefit. Payment under the scheme is at the same rate and for the same duration as your entitlement to Jobseeker's Benefit.

Back to Work Enterprise Allowance

This allows you to retain part of your social welfare payment if you take up self-employment and meet various conditions. In order to qualify, you must

- Be setting up a self-employment business that has been approved by a partnership company or job facilitator.
- If you are unemployed, you must be 12 months on the Live Register and getting Jobseeker's Benefit or Jobseeker's Allowance. If you are on Jobseeker's Benefit, you must have an underlying entitlement to Jobseeker's Allowance. If you do not have a Jobseeker's Allowance entitlement but you are getting Jobseeker's Benefit, the qualifying period is two years.

Time spent on certain other social welfare payments as well as training and community programmes may count towards the qualifying period. Your spouse may be able to take up the scheme instead of you in certain circumstances.

Other groups who may qualify for the scheme

You may also qualify for the scheme if you have been:

- Getting Illness Benefit for three years or more or getting any of the following payments for at least 12 months: One-Parent Family Payment, Disability Allowance, Blind Pension, Carer's Allowance (having ceased caring responsibilities), Invalidity Pension, Incapacity Supplement, Pre-Retirement Allowance, Widow's/Widower's Non-Contributory Pension, Deserted Wife's Benefit/Allowance, or Prisoner's Wife's Allowance
- Getting Farm Assist for 12 months, provided that the self-employment is not in relation to the holding and not the continuation of an existing operation
- Signing on on a casual basis and you have 312 days on the Live Register and an underlying entitlement to Jobseeker's Allowance

If you qualify, you may retain 100% of your payment in the first year and 75% in the second year. (Some people may still be receiving this allowance under the old rules which provided for its payment over four years.)

You may be able to retain your secondary benefits while you are on the scheme.

Technical assistance

If you qualify for either scheme, you may be able to get a grant from the Department of Social Protection's Technical Assistance And Training (TAT) Fund of up to a maximum of up to €1,000 towards the start-up expenses. These include training (in areas such as book-keeping/accounts, preparation of business plans, marketing, literacy and computer training) and the purchase of small items of equipment. This scheme is operated by the Department's facilitators.

Further information

Back to Work Allowance Section,
Department of Social Protection,
Shannon Lodge, Carrick-on-Shannon, Co Leitrim
Tel: (071) 967 2698
Lo-call: 1890 927 999
Web: welfare.ie

Taxation

Registering as self-employed

If you become self-employed you should register with the Revenue Commissioners using form TR1 (or TR2 for a company). This covers registration for Employer's PAYE/PRSI, Value Added Tax (VAT), Relevant Contracts Tax and income tax.

VAT

If you are becoming self-employed either as a sole trader or setting up a business, you may need to register for VAT. You must register for VAT if you reach a certain turnover threshold. This varies depending on the kind of activity you are pursuing but, in general, it is currently €37,500 for people supplying services and €75,000 for people supplying goods. It may be in your interest to register even if your turnover is below the mandatory registration limits but this depends very much on the nature of your business.

According to the Revenue Commissioners, an application to register for VAT is normally dealt with within 10 working days.

Registering as an employer

An application to register as an employer is normally dealt with within five working days. The Revenue Commissioners are currently developing an online self-service registration system through its Revenue Online Service (ROS). This will facilitate registration for VAT and as an employer. This is expected to be available later in 2010.

PRSI job incentive scheme

You may be operating as a sole trader or you may be an employer. In Budget 2010, €36 million was allocated to provide a PRSI job incentive scheme for employers who take on new staff in 2010. The scheme has not yet been launched but this is expected to happen shortly. The scheme will run for the 2010 calendar year only. If you take on a new employee anytime in 2010, you may be eligible for the scheme. This means that you do not have to pay the employer's PRSI for a year. If you took on an eligible employee before the launch of the scheme, the year starts from the date of the launch and lasts one year. If you take on an eligible employee after the launch, then the period lasts for a year from the start of the employment.

Accessing credit

Difficulty in accessing credit is currently one of the main problems facing small businesses. Attempts are being made to address the problem. Banks have made a number of commitments to the small business sector as part of the Government's recapitalisation process. There is a new Credit Review Office to review decisions on credit which have been made by the banks. There is a Financial Regulator code of conduct for lending to small and medium enterprises.

Small and medium enterprises

The EU definition of small and medium enterprises has been adopted for the purposes of banks' commitments to the sector and for the code of conduct. The EU definition means that your business is regarded as small or medium if the business has less than 250 employees and an annual turnover of less than €50 million, and/or a balance sheet total of less than €43 million.

Bank commitments

As part of the Government's recapitalisation of the banks, the two main banks, AIB and Bank of Ireland, have agreed to make available not less than €3 billion each for new or increased credit facilities to small and medium enterprises in 2010 and 2011. This must include funds for working capital for businesses. Each bank must produce a plan that includes a sectoral and geographic breakdown of how it intends to divide up this new lending.

Each bank has also agreed to make available €20 million for seed capital to be provided to ventures supported by Enterprise Ireland and each is to set up a fund of up to €100 million for environmental, clean energy and innovation projects.

The banks are also required to commit resources to work with Enterprise Ireland and the Irish Banking Federation to

- Develop sectoral expertise in the modern growth sectors of the Irish economy
- Explore with Enterprise Ireland and the Irish Banking Federation how best to develop the range of banking services that Irish small and medium enterprises trading internationally will need
- Develop expertise and bring forward new credit products in areas where cash flow, rather than property or assets, is the basis for business lending

Credit Review Office

A Credit Review Office was established in March 2010 to examine the credit policies and practices of the banks, particularly for small and medium enterprises, including sole traders and farm enterprises. The Office reviews cases where credit has been refused.

The legal basis for the Office is the National Asset Management Agency Act 2009 and SI 127/2010. The Act provides for guidelines to be issued regarding lending practices and procedures and relating to the review of decisions of participating institutions to refuse credit facilities. The Statutory Instrument contains the guidelines.

The Credit Review Office has three broad aims:

- To ensure that credit is not refused to viable businesses with valid credit propositions
- To assist the Minister for Finance in facilitating the availability of credit
- To examine the lending policies of the banks in respect of small and medium enterprises, sole traders and farm enterprises, including systems of exemptions to policy

It is important to note that the Office reviews credit decisions made by the banks; it does not have the power to override them or to order banks to provide credit in any individual case.

Decisions which may be reviewed

The Office may review a refusal of a loan if the following conditions are met:

- You are a small or medium enterprise.
- The application was for a loan of between €1,000 and €250,000. This limit applies to your current application. You may have other borrowings from the same institution but these do not affect this limit.

A refusal of a loan includes a decision to give you less than you have asked for or to withdraw or reduce an existing credit facility. The failure to make a decision on a loan application within 15 days is regarded as a constructive refusal of a loan. The scheme does not apply to decisions on credit card facilities.

The Credit Review Office may review decisions made by those institutions which are involved in the NAMA process: Allied Irish Bank, Bank of Ireland, EBS, Anglo Irish Bank and Irish Nationwide Building Society.

Any bank which may subsequently join the NAMA process will also come under the Office's remit. Other banks may join the scheme voluntarily.

The Office may review decisions made on or after 30 March 2010. If you were refused credit before that date, you may, of course, apply again and the new decision may then be reviewed by the Office.

How the process works

If you have been refused a loan, you must first use the bank's internal review and appeal mechanisms before applying to the Credit Review Office. Each bank has its own arrangements for such reviews and appeals. The banks concerned are all bound by the *Code of Conduct for Business Lending to Small and Medium Enterprises* which requires them to have such internal review and appeal processes – see page 8.

You should apply within 10 days of the bank's final decision to refuse or reduce credit. The final decision is the decision after the internal review process. If you exceed this time limit you can still apply and your application may be accepted. The necessary forms and further details are available on the Office's website, creditreview.ie. The bank must reply to the Credit Review Office within 15 days and, if it does not do so, this is regarded as a constructive refusal by the bank. Having received the bank's reply, the Credit Review Office expects to carry out the review in 10 working days. The review examines the behaviour of the bank and the borrower throughout the credit application process to ensure that acceptable standards have been followed by both parties. This includes examining credit and appeal application response times and checking that charges and security requests are not unreasonable. It also includes examining whether the borrower has realistic expectations and has provided adequate and accurate information to the bank for a decision to be taken.

If the Office, following its review, is of the opinion that the lending could have been made within acceptable risk boundaries, the bank is then required to either comply with the recommendation or explain to the Credit Review Office why it will not do so. This explanation must be given within five working days of being requested. The Office must give reasons for its decision to both sides.

The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

Head Office

Ground Floor t + 353 1 605 9000
George's Quay House f + 353 1 605 9099
43 Townsend Street e info@ciboard.ie
Dublin 2 w www.citizensinformationboard.ie

Fees

The minimum fee for the service is €100 and the maximum fee is €250. The minimum fee applies to reviews involving applications for up to €100,000. For amounts above €100,000, the fee is €1 for each €1,000.

Other activities

The Office will issue a quarterly statistical report to the Minister of Finance on the outcomes of the reviews. This report should show whether or not banks are unreasonably refusing credit.

Further information

Credit Review Office
The Plaza, East Point Business Park, Dublin 3
Helpline: 1850 211 789
Web: creditreview.ie

Code of Conduct

The Financial Regulator *Code of Conduct for Business Lending to Small and Medium Enterprises* was published in February 2009. This is a statutorily binding code similar to that which applies to mortgage arrears.

The code is legally binding on all regulated financial institutions except credit unions. As well as aiming to facilitate access to credit for viable businesses, it also aims to ensure that arrears are dealt with appropriately.

Among other things, the code requires that financial institutions:

- Tell you how long the application process for credit will take
- Explain the reasons clearly if you are refused credit
- Give you detailed information on what is involved in your borrowing including detailed information on the interest and other charges; key items must be drawn to your attention
- Offer you an option of an annual review meeting, to include all credit facilities and security
- Have a procedure in place for dealing with arrears
- Have a complaints handling procedure

Handling complaints

The code requires that each financial institution have in place a written procedure for the proper handling of complaints with the aim of resolving the complaint as soon as possible. The system must provide, at minimum, that the institution:

- Acknowledges your complaint within five business days of the complaint being received
- Provides you with the name of one or more individuals appointed to be your point of contact in relation to the complaint
- Provides you with a regular update on the progress of the investigation of the complaint
- Tries to investigate and resolve a complaint within 40 business days
- Advises you of the outcome of the investigation within five business days of its completion and, where applicable, explains the terms of any offer or settlement being made

The code is enforced by the Financial Regulator:
Lo-call: 1890 77 77 77
Web: financialregulator.ie

Loan guarantees

The Department of Finance is currently examining a possible scheme of loan guarantees for the small and medium enterprise sector but no decisions have yet been made.

Citizens Information 

LOG ON
www.citizensinformation.ie

LO-CALL
1890 777 121 Open Mon to Fri, 9am to 9pm

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For your local centre see [Golden Pages listing](#)