

Report to the Minister for Social  
Protection on Extending Social Insurance  
Coverage for the Self-Employed

**Advisory Group on Tax and Social Welfare**

**Third Report: Extending Social Insurance Coverage for the Self-  
Employed**

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# Chapter 1

## Introduction

### 1.1 Overview

The Advisory Group on Tax and Social Welfare was established by the Minister for Social Protection in June 2011. The Group's terms of reference are wide ranging and are set out in full in Appendix 1. This report is concerned with the issues involved in providing for the extension of social insurance cover for self-employed people in order to establish whether or not such cover is technically feasible and financially sustainable. It sets out the Group's findings and recommendations in this regard. It should be borne in mind that the Group is required to consider any proposals for change to existing arrangements in a cost-neutral or cost-reducing context.

The issue of whether the present arrangements regarding social insurance for the self-employed are appropriate has increased in prominence over recent years. The economic recession and the consequent rise in the unemployment rate have highlighted the fact that many workers, particularly in the construction sector, had been operating on a self-employed basis and had been making PRSI Class S contributions. As a result these workers have no entitlement to the insurance based Jobseeker's Benefit. They also do not have an entitlement to a range of benefits which are available to employees contributing at the PRSI Class A rate including Invalidity Pension and Occupational Injuries Benefits. The Group considered the question of social insurance entitlement in the context of the particular issues that can arise for the self-employed in securing access to means tested welfare supports. The experiences of self-employed persons in relation to these issues have been outlined in a recent Citizen's Information Board report.<sup>1</sup> Its findings have been drawn on in the work of the Advisory Group on this module.

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<sup>1</sup> *Hard Times for the Self-employed. Citizens Information and MABS Experience*, Citizens Information Board Social Policy Report (Dublin, 2012).  
[http://www.citizensinformationboard.ie/publications/social/downloads/Hard\\_Times\\_for\\_Selfemployed\\_2012.pdf](http://www.citizensinformationboard.ie/publications/social/downloads/Hard_Times_for_Selfemployed_2012.pdf)

This report commences with a review of the historical and current arrangements for the self-employed in the tax and social welfare systems (Chapter 2). It then considers whether extending social insurance for the self-employed to cover short- and long-term contingencies in relation to unemployment or ill-health is, first technically feasible (Chapter 3) and second, financially achievable (Chapter 4). Finally, Chapter 5 sets out the Recommendations of the Group.

## **1.2 Consultation**

As part of the consultation process for the Advisory Group, an invitation was placed in national newspapers inviting interested organisations, stakeholders or individuals to make written submissions on the topic of extension of social insurance for the self-employed. Thirty replies were received on this topic and a summary of the key issues raised and a list of those who made submissions is set out in Appendix 2.

## Chapter 2

### Historical and Current Arrangements for the Self-Employed in the Tax and Welfare Systems

#### 2.1 Historical Developments

Pay-Related Social Insurance (PRSI) for the self-employed was introduced in 1988. Apart from certain exceptions, self-employed people aged 16 or over and under age 66 became compulsorily insured as self-employed contributors. Prior to the introduction of PRSI for the self-employed there was a range of reviews that considered the issue. In 1978 the Green Paper 'Social Insurance for the Self-Employed – A Discussion Paper'<sup>2</sup> observed that it might be appropriate to extend cover for long-term payments, such as old age, widows and invalidity pensions to the self-employed. It did not regard the extension of short-term payments, including disability benefit (now called Illness Benefit) to the self-employed as suitable. The nature and pattern of earnings of the self-employed, it argued, would be such as to enable this group to make up over time for temporary loss of income in a way not possible for employees. It noted that this would not apply to the same extent to those categories of self-employment in which the income depends entirely on personal participation. It concluded that if short-term benefits were to be extended to this latter sub-group, the types of self-employment which might be covered would need to be defined and difficulties in controlling the system would inevitably arise.

The Commission on Social Welfare (1986)<sup>3</sup> was of the view that social insurance should be extended to the self-employed. Given that the self-employed are subject to insecurity of income, there was no reason, in principle, why they should not benefit from and contribute to a system on the same basis as others. The Commission recommended that the self-employed should be brought within the scope of social insurance. The Commission qualified this by stating that

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<sup>2</sup> Department of Social Welfare (1978), *Social Insurance for the Self-employed – A Discussion Paper*, Referenced in the Report of the Commission on Social Welfare 1986.

<sup>3</sup> Commission on Social Welfare (1986) *Report on the Commission on Social Welfare*. Government of Ireland: Dublin, p. 235.

On balance we are of the view that benefit cover should comprehend long-term payments, i.e., invalidity, old age and widow's pensions. The revised payments structure will ensure coverage on a means-tested basis for short periods of incapacity.<sup>4</sup>

The Social Welfare Act 1988 provided for the introduction of social insurance coverage for the self-employed with effect from 6 April 1988. This entailed self-employed people aged 16 or over and under age 66, apart from certain exceptions, becoming compulsorily insured as self-employed contributors and provided for the following benefits: Old Age (Contributory) Pension (now called State Pension (Contributory)), Widow's (Contributory) Pension (now called Widow's, Widower's or Surviving Civil Partner's (Contributory) Pension and Orphan's (Contributory) Allowance. In his speech to the Dáil on the Bill, the then Minister for Social Welfare, Dr. Michael Woods stated that:

There are two main reasons for bringing the self-employed within the scope of social insurance. First, it gives self-employed people the opportunity of contributing to pensions for old age or widowhood without a means test. Secondly, it brings greater equity into the financing of social welfare as a whole.<sup>5</sup>

The question of extending Invalidity Pensions to the self-employed was considered in the final report of the National Pensions Board *Developing the National Pension System*. This report did not recommend the immediate extension of Invalidity Pension to the self-employed but recommended instead that means-tested cover, in the form of a disability assistance (provided for in legislation in 1996 but never actually introduced) and invalidity allowance, be made available. It further recommended that the question of introducing social insurance cover for the self-employed should be reviewed not later than five years after the introduction of the proposed schemes and in the light of experience gained through their application but, since the proposed schemes were never introduced, this did not happen.<sup>6</sup>

In 2009 the Commission on Taxation considered issues relating to the PRSI system as part of its examination of the structure of the taxation system. In relation to the

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<sup>4</sup> See <http://www.irishstatutebook.ie/1988/en/act/pub/0007/index.html>

<sup>5</sup> *Dáil Éireann - Volume 378* - 09 March, 1988, Social Welfare Bill, 1988: Second Stage. <http://www.oireachtas-debates.gov.ie>

<sup>6</sup> *Developing the National Pension System, Final Report of the National Pensions Board* (Dublin, 1993), pp 147 – 148.

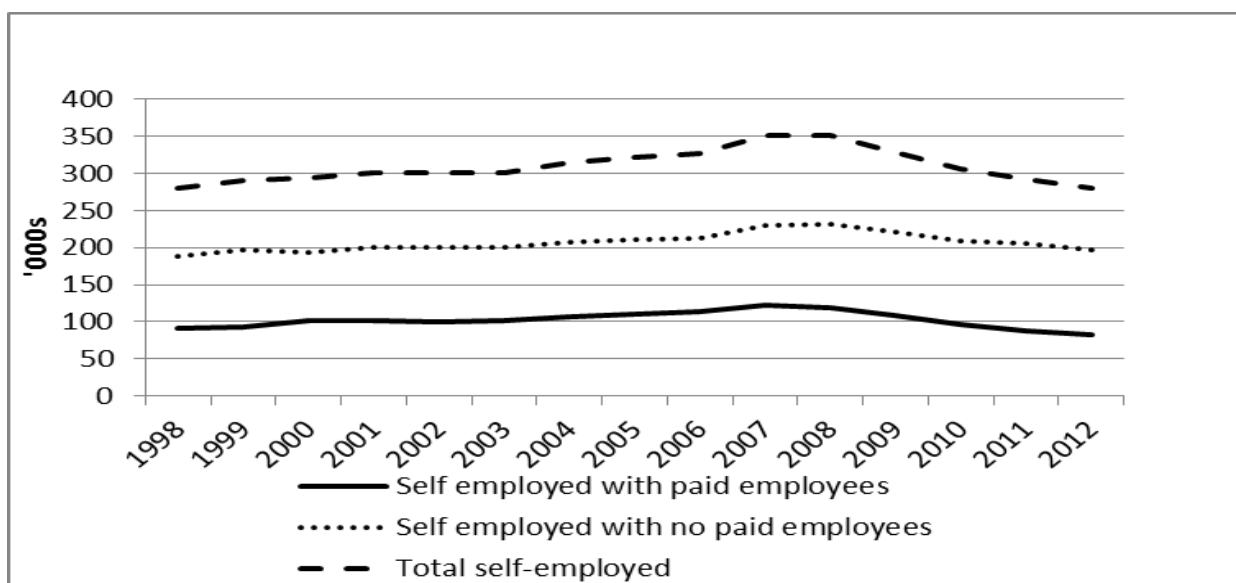
PRSI structure the Commission recommended that a similar PRSI base should apply to employees and the self-employed and there should be a single rate of charge which should apply to both. The Commission also made the following observation:

Employer PRSI should be regarded as a payment to cover employment-related benefits, such as jobseeker's benefit, illness benefit, occupational injuries benefit and health and safety benefit which are available only to employees, while other benefits, which are available to all workers, should be linked to the employee and self-employed PRSI.<sup>7</sup>

## 2.2 Profile of the Self-Employed

Census 2011<sup>8</sup> revealed that 16.9% of the number of people at work were self-employed, which equates to around 306,000. This was a slight decrease on the Census 2006 figure of 308,000. Of those categorised as self-employed, 79% were male. Figure 1 shows recent trends in regard to those classified as self-employed, using data from the Quarterly National Household Survey (QNHS). In the third quarter of 2012 the total number of self-employed persons was 279,700. This was an annual decrease of 12,600 or 4.3% from the level observed in the same quarter of 2011. The highest level for the number of self-employed people was in 2007 at 352,000. Since then there has been a decrease of 21% in the numbers of people in self-employment and the number is now at levels last seen at the beginning of 1998.

**Figure 1: Trend in self-employed numbers 1998 – 2012**



Source: CSO, QNHS.

<sup>7</sup> Commission on Taxation, Report 2009 (Dublin), p.110.

<sup>8</sup> Central Statistics Office (2011) Census 2011. CSO: Cork.



Another perspective is the numbers of self-employed as a percentage of the numbers in employment. Figure 2 shows that over the period 1998 to 2012 there has been a gradual reduction in the proportion of those self-employed, from 18% to 15%. In 2012, while the numbers in self-employment was at a similar level to the late 1990s, this group made up a smaller proportion of all those in employment than at the start of the period.

**Figure 2: Self-employment as a percentage of those in employment, 1998 – 2012**



Source: CSO, QNHS.

Table 1 sets out the number of self-employed people classified by broad economic sector. In 2012 the largest economic sector was ‘Agriculture, forestry and fishing’, which accounted for 59,800 people. This was followed by construction at 37,500 people. While most categories in the services sector have remained broadly stable during the period 2006 to 2012, there has been a significant decrease in the construction sector, which declined by 37,600 from a high of 75,100 in 2008: a decline of 50%.

**Table 1: Persons aged 15 years and over in employment (ILO) - Self-Employed persons only by NACE Economic Sector 2006 to 2012**

	2006	2007	2008	2009	2010	2011	2012
	Thou	Thou	Thou	Thou	Thou	Thou	Thou
<b>SECTION A — AGRICULTURE, FORESTRY AND FISHING</b>	83.3	86.4	84.3	73.6	64.6	59.9	59.8
<b>SECTION B-F — TOTAL INDUSTRY</b>	92.0	96.5	102.3	80.7	64.0	58.1	56.1
<b>Section B-E — Industry</b>	23.0	24.1	27.2	24.9	19.4	19.3	18.7
<b>Section F — Construction</b>	68.9	72.4	75.1	55.8	44.6	38.8	37.5
<b>SECTION G-U TOTAL SERVICES</b>	151.8	168.4	163.6	174.5	176.9	174.1	163.6
<b>Section G - Wholesale &amp; Retail trade; Repair of motor vehicles and motorcycles</b>	35.1	38.0	36.9	35.1	36.5	34.3	32.8
<b>Section H - Transportation &amp; Storage</b>	22.7	24.4	23.1	26.6	24.1	24.2	22.3
<b>Section I - Accommodation &amp; Food service Activities</b>	12.9	14.0	13.1	15.5	14.4	15.4	12.1
<b>Section J - Information &amp; Communication</b>	6.8	8.3	7.5	8.9	10.8	13.1	9.6
<b>Section K-L - Financial, insurance and real estate activities</b>	6.6	8.4	6.2	7.5	7.3	7.8	6.6
<b>Section M Professional, Scientific and Technical Activities</b>	25.5	27.8	27.9	28.6	29.9	29.4	28.8
<b>Section N Administrative &amp; Support Service Activities</b>	7.9	9.6	9.7	10.6	8.2	9.4	9.4
<b>Section O Public Administration and Defence; Compulsory Social Security</b>	*	*	*	*	*	*	*
<b>Section P Education</b>	5.1	5.6	7.3	5.5	8.1	7.2	6.3
<b>Section Q Human Health and Social Work Activities</b>	10.4	11.1	9.3	13.7	12.9	12.3	13.3
<b>Section R-U Other Services Activities</b>	18.2	20.7	22.3	22.0	24.3	20.7	21.5
<b>All</b>	327.1	352.0	350.9	329.5	305.7	292.3	279.7

Source: CSO, QNHS.

Note: Figures in columns might not add up due to rounding.

### 2.2.1 Defining Self-Employment in individual circumstances

In most cases it is clear whether an individual is employed or self-employed.

However, in some cases it is not so obvious, which in turn can lead to disputes in relation to the status of individual contracts and these need to be settled using case law and appropriate mechanisms. Nonetheless in the past, various review groups were established under Social Partnership agreements to consider the issue of

whether increasing numbers were being categorised as ‘self-employed’ when indications suggested they should be more appropriately categorised as ‘employed’. These review groups included the Employment Status Group under the *Programme for Prosperity and Fairness* and the Hidden Economy Monitoring Group under *Towards 2016*. Criteria as to who is self-employed were set out in the ‘Code of Practice for determining Employment or Self Employment status of individuals’, published in 2007.<sup>9</sup> The guidelines point to the importance of looking at the job as a whole, including working conditions and the reality of the relationship. A key factor is whether the person performing the work does so ‘as a person in business on their own account’ and whether the person is a free agent with an economic independence from the person engaging the service. Appendix 3 sets out an extract from the Code of Practice, outlining the criteria to determine whether an individual is an employee or is self-employed. In this regard it should be noted that in 2010 there were 263 people on building sites who claimed to be self-employed and who were subsequently reclassified as employees by the Revenue Commissioners and the Department of Social Protection.<sup>10</sup>

Despite these measures, the issue of ‘disguised self-employment’ remains a serious concern, particularly in the construction and food processing sectors. Employment trends over the last two decades towards greater flexibility and casualisation have resulted in low paid and precarious employment, with some workers being classified as self-employed even though they might not possess those characteristics of entrepreneurship and risk-taking often perceived as features of the self-employed.<sup>11</sup> There is therefore a challenge in ensuring that the disguised self-employed, often working in the informal sector of the economy, are properly covered through the social insurance system. There is also a challenge in ensuring that the social insurance system responds to changes in working patterns and behaviours as employment itself becomes increasingly flexible and fragmented.

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<sup>9</sup> <http://www.welfare.ie/EN/Publications/EmploymentStatus/Documents/codeofpract.pdf>

<sup>10</sup> Houses of the Oireachtas, Committee of Public Accounts Debate, Thursday, 22 September 2011.

<sup>11</sup> The growth of precarious employment has recently been considered in an Impact Trade Union report *Decent Work? The impact of the recession on low paid workers*. The extent to which disguised self-employment might be a problem is difficult to ascertain given the tendency for such workers to be employed in the margins of the labour force.

## 2.3 Extension of Social Insurance Coverage: Duration and Potential Needs of Target Groups

### 2.3.1 Income profile of the self-employed

Examining the income profile of the self-employed is one starting point in considering the extent to which there is a need to extend social insurance for this group.

Table 2 portrays the distribution of the self-employed by number of tax unit cases and by gross income bands and is based on Revenue data for 2009. It should be noted that in these statistics a married couple who has elected or who has been deemed to have elected for joint assessment is counted as one tax unit and that their incomes are aggregated. The data shows that almost 63% of the self-employed had a gross income below €50,000. Of these almost 34,000 (approximately 13%) had incomes below €10,000.

**Table 2: Distribution of self-employed by gross income bands based on Revenue Statistics, 2009**

Gross Income Band	Number of cases	Percentage	Cumulative %
Below €25,000	92,382	35.8%	35.8%
€25,000 - €50,000	69,058	26.8%	62.6%
€50,000 - €75,000	38,411	14.9%	77.5%
€75,000 - €100,000	20,916	8.1%	85.6%
€100,000 - €150,000	17,871	6.9%	92.5%
€150,00 - €200,000	7,089	2.7%	95.3%
Over €200,000	12,253	4.7%	100.0%
<b>Total</b>	<b>257,980</b>	<b>100.0%</b>	

Source: Revenue Commissioners 2009- most recent full year data.

Table 3 is based on the CSO's Survey on Income and Living Conditions 2009, which is a sample survey of 5,183 households and 12,641 individuals, of which 1,090 or 8.6% of survey respondents, said they were self-employed. Of these, almost 58% have gross incomes below €50,000.

**Table 3: Distribution of self-employed by gross income bands based on SILC, 2009**

Gross Income Band €	% of Self-Employed	Cumulative %
0-24,999	30.37	30.37
25,000-29,999	7.80	38.17
30,000-34,935	5.14	43.30
34,936-39,999	6.33	49.63
40,000-44,870	4.04	53.67
44,871-49,999	4.13	57.80
50,000-54,805	4.31	62.11
54,806-59,999	3.58	65.69
60,000-64,740	3.12	68.81
64,741-69,903	3.76	72.57
69,904+	27.43	100.00

Source: CSO, Survey on Income and Living Conditions 2009 – to compare with most recent full year data from Revenue Commissioners.

However, it should be borne in mind that a self-employed person's PRSI contribution is paid on a person's gross income less capital allowances. When these are taken into account, the earnings/income that is reckonable for PRSI purposes would be less. Table 4 sets out the number of self-assessed Class S contributors for 2009, which shows that almost three-quarters of cases had incomes of below €25,000. The tables also shows that over a fifth of cases had incomes below the level at which a person is not liable to pay a PRSI contribution (€5,000). It can be observed that the income distribution of the self-employed based on a gross income basis is significantly higher than the levels displayed in their reckonable incomes for PRSI purposes.

**Table 4: Reckonable income of the self-employed for PRSI purposes, 2009**

Income bands	Number of cases	Percentage	Cumulative %
< €5,000	58,270	21.8%	21.8%
€5,001 – €10,000	52,327	19.5%	41.3%
€10,001 – €15,000	40,137	15.0%	56.3%
€15,001 – €20,000	28,038	10.5%	66.7%
€20,001 – €25,000	20,363	7.6%	74.3%
€25,001 – €30,000	14,113	5.3%	79.6%
€30,001 – €40,000	18,027	6.7%	86.3%
€40,001 – €50,000	10,304	3.8%	90.2%
€50,001 – €75,000	10,928	4.1%	94.3%
€75,001 - €100,000	4,494	1.7%	95.9%
€100,001 - €500,000	10,011	3.7%	99.7%
> €500,000	879	0.3%	100.0%
<b>Total</b>	267,891	100%	

Source: DSP

SILC data also gives an indication of the movements in the incomes of the self-employed generally. Table 5 shows that the median annual incomes of the self-employed decreased during the period 2005 to 2009 by almost €600. In contrast the median income derived from the total survey, while consistently below the level of the self-employed, rose by over €500 over the same period. Therefore, there has been a degree of convergence between the total population and the self-employed population and by 2009 the difference in the median incomes between the two had reduced from €1,309 to €235.

**Table 5: Median income of the self-employed (equivalised) 2005 - 2009**

	2005	2007	2009
<b>Median income Self-employed</b>	€20,914	€20,946	€20,341
<b>Median income Total Survey</b>	€19,605	€19,792	€20,106

Source: CSO Survey on Income and Living Conditions, various years

### 2.3.2 Self-employment and at-risk-of-poverty

Table 6 shows the at-risk-of-poverty rates<sup>12</sup> for the self-employed between 2005 and 2009 and compares these rates against the total population and the working age

<sup>12</sup> At risk of poverty is set as below the threshold of 60% of median equivalised household income (national scale: 1, 0.66 and 0.33).

population. From this table it can be observed that in 2005 and 2007, the at-risk-of-poverty rate for the self-employed did not vary too greatly from the rate for the working age population and that these rates were lower than those of the total population. However, in 2009 the rate for the self-employed increased to 16.4%, 3.4 percentage points greater than the rate for the working age population and 2.3 percentage points greater than that for the total population. This points to a dis-improvement in the situation for some of the self-employed and points to a reduction in their incomes relative to the working age population generally.

**Table 6: At-risk-of-poverty rates 2005 - 2009**

	2005	2007	2009
<b>Total population</b>	18.5%	16.5%	14.1%
<b>Working age population</b>	16.2%	15.0%	13.0%
<b>Self-employed</b>	16.7%	14.9%	16.4%

Source: CSO Survey on Income and Living Conditions, various years

Recent research by the ESRI<sup>13</sup> shows that while the at-risk-of-poverty rate is higher among the self-employed than among employees, the self-employed do not show a greater level of disadvantage on indicators of material deprivation. The research also points to a strong relationship between in-work poverty and self-employment, with 44% of the working poor being categorised as self-employed or farming in 2010. This percentage has increased substantially since 2004 when it was 27%. However, the ESRI noted that the in-work poverty indicator<sup>14</sup> may be identifying a group that appears to be poor in terms of income but who do not look to be disadvantaged on other indicators of poverty such as basic deprivation or economic vulnerability. This would suggest that the self-employed may be working for a low return now in anticipation of an improvement in their incomes in the future and consequently their income poverty (as measured by the at-risk-of-poverty indicator) might be of a short duration.

<sup>13</sup> D. Watson, B. Maître, C. T. Whelan, *Work and Poverty in Ireland: An Analysis of the CSO Survey on Income and Living Conditions 2004-2010*, Economic and Social Research Institute & Department of Social Protection (Dublin, 2012), pp 77-78, 94-95, 100-101.

<sup>14</sup> The 'In-work poverty' indicator is calculated in the report at the individual level for adults aged 18-59 who are at work either full- or part-time as based on their current principal economic status (PES). The indicator captures being at work and at the same time being in a household at-risk-of poverty. The indicator differs slightly from the EU measure of 'in-work poverty', which calculates from a base population of adults aged 18-64 and on PES over the previous twelve months.

### 2.3.3 Illness and disability risks

The lack of data on work-related health problems and occupational illnesses for self-employed workers in Ireland makes it difficult to identify what might be needed from an extension of social insurance to cover contingencies related to illness or acquired disability. The distinctions between self-employed people with employees and sole traders and between self-employed traders i.e. those who can sell or let their business during periods of reduced work or illness and those who cannot, are important. Some self-employed people may be able to continue to receive an income while they are ill or have a disability, while others might not be able to draw an income from their businesses.

Self-employed workers are likely to be prone to the same types of risks as employees in similar sectors of the economy. European research carried out in 2005 showed that there is a strong correlation between working in specific occupations and sectors and exposure to physical risks.<sup>15</sup> The most exposed sectors to physical risks included the construction and agriculture sectors. Crafts and related trades workers, as well as agricultural and fishery workers, were also exposed to higher than average risks. These sectors and occupations are ones in which self-employment is particularly important. The research also showed that self-employed workers without employees reported higher levels of work-related health problems (45%) than self-employed workers with employees (36%) or employees (33%). The most frequently reported symptoms were musculoskeletal disorders such as backache and muscular pains.

### 2.3.4 Education and training needs

The relationship between levels of education and self-employment is not simple. The self-employed are heterogeneous in terms of educational attainment, given that the self-employed are involved in occupations ranging from professionals in law and finance to tradesmen involved in construction. In the 1990s research into the socio-demographic characteristics of the self-employed in Ireland suggested that the self-employed had lower levels of education and that this was more marked among self-employed without employees.<sup>16</sup> Recent research suggests that there has been an

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<sup>15</sup> European Foundation for the Improvement of Living and Working Conditions (2009) *Self-employed workers: industrial relations and working conditions*, pp 55 – 56.

<sup>16</sup> Carmel Duggan, 'Self-Employment in the United Kingdom and Ireland: Current Trends, Policies and Programmes', pp 9 – 10. <http://www.wrc.ie/publications/self001.pdf>



improvement in the education profile of the self-employed. During the period 2004-2010 the proportion of self-employed with third-level qualifications (including those at degree and diploma level) rose from 25% to 33%. The share of higher secondary education rose more slowly from 34% to 37%, while the percentage with basic qualifications up to and including lower secondary declined from 41% to 30%.<sup>17</sup>

Self-employed people seem to be less likely to participate in further training or education while in work. Results from the 2008 QNHS module on lifelong learning showed that employees were more likely in that year to be in receipt of formal education (7%) compared to 2% for the self-employed with paid employees and 3% for the self-employed without paid employees.<sup>18</sup>

The need to address deficits in education and meet needs for re-training is borne out by recent trends, combined with pre-existing factors in the profile of some of the self-employed. This can be seen, for example, in the recent significant loss of self-employment in the construction sector, where educational attainment was already likely to be lower than for those self-employed in other sectors.

### 2.3.5 Over-indebtedness and insolvency

Self-employed people are principally involved in micro-enterprises in the form of small businesses or sole traders. As a result of the current economic downturn, many self-employed people are in financial difficulty and face problems associated with over-indebtedness, insolvency and unaffordable/unavailable credit. This is compounded by the fact that for many self-employed people there is often little or no distinction between their businesses and their personal or family finances.<sup>19</sup> While accessing income support payments such as Jobseeker's Allowance can address the issue of loss of income as a result of the closure of a business, the wider issue of over-indebtedness and insolvency is one that cannot be addressed through income

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<sup>17</sup> *European Employment Observatory Review: Self-employment in Europe*, European Commission (2010), p. 8. <http://ec.europa.eu/social/BlobServlet?docId=6137&langId=en>

<sup>18</sup> CSO, QNHS Lifelong Learning 2008 (2010), pp 2, 7. [http://www.cso.ie/en/media/csoie/releasespublications/documents/labourmarket/2008/qnhs\\_lifelonglearningqtr32008.pdf](http://www.cso.ie/en/media/csoie/releasespublications/documents/labourmarket/2008/qnhs_lifelonglearningqtr32008.pdf)

<sup>19</sup> The CIB Report Hard Times for the Self Employed draws on MABS frontline case experience in relation to indebted self-employed people. *Hard Times for the Self-employed. Citizens Information and MABS Experience*, pp 16 – 17.

support measures alone. While recognising that former employees also face these problems and that the implementation of the legislation dealing with personal insolvency may provide a remedy for some insolvent debtors,<sup>20</sup> the conflation of personal and business debt may pose particular difficulties for the self-employed when considering current provisions and any proposed extension of social insurance coverage for this group.

## 2.4 Current provisions for the self-employed

### 2.4.1 Entitlements to Benefits

Self-employed persons are liable for PRSI at the Class S rate, which entitles them to access long-term benefits such as State Pension (Contributory) and Widow's, Widower's or Surviving Civil Partner's (Contributory) Pension. Since 1997 Class S contributions also provide cover for Maternity Benefit and Adoptive Benefit. Table 7 sets out the benefits that self-employed contributors can obtain and compares these to employed contributors' benefits.

**Table 7: Overview of Benefits**

	Class A	Class S
Adoptive Benefit	✓	✓
Bereavement grant	✓	✓
Carer's Benefit	✓	
Guardian's Payment (Contributory)	✓	✓
Health and Safety Benefit	✓	
Illness Benefit	✓	
Invalidity Pension	✓	
Jobseeker's Benefit	✓	
Maternity Benefit	✓	✓
Occupational Injuries Benefit	✓	
State Pension (Contributory)	✓	✓
State Pension (Transition) (which will be abolished in 2014)	✓	
Treatment Benefit	✓	
Widow's, Widower's or Surviving Civil Partner's (Contributory) Pension	✓	✓

<sup>20</sup> The Personal Insolvency Act 2012 is being implemented during 2013.  
<http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2012/5812/document1.htm>

PRSI Class S is paid by self-employed people such as:

- farmers,
- professional people (for example, doctors, dentists, solicitors),
- people in business on their own or in partnerships, contractors, sub-contractors carrying on independent businesses,
- people with income from investments, rents or, in some cases, maintenance payments,
- employees who pay Class A PRSI who are also self-employed in a trade or profession pay Class S PRSI on their self-employed income as well as their Class A PRSI contribution on their employment income; employees who pay modified PRSI – civil and public servants who started employment before 1995 – are also liable for PRSI on their self-employed income since January 2013,
- people who pay their tax through the PAYE system but who are not regarded as employees for social insurance purposes, i.e. motorcycle couriers etc.,
- Certain artists and childminders who are exempt from income tax.

Certain categories of people are excluded from paying Class S PRSI, including for examples:

- relatives of the self-employed who help out in the running of the business, but who are not business partners,
- people with reckonable annual income of less than €5,000,
- employees whose only self-employed income is unearned income such as interest or rent,
- people in receipt of an occupational pension whose only self-employed income is unearned income such as interest or rent,
- people in receipt of pre-retirement allowance on an on-going basis,
- people not ordinarily resident in the State with unearned income.

The current rate of Class S PRSI is 4% of all income including unearned income. The 4% rate was introduced in Budget 2011 when the rate was increased from 3%. Budget 2013 provided for an increase in the minimum annual contribution for Class S from €253 to €500. Table 8 sets out the rates of contribution under Class S. Under full-rate Class A PRSI, employees pay 4% of income (not including unearned income<sup>21</sup>), while employers make a PRSI contribution of 10.75%. For employees

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<sup>21</sup> Budget 2013 provides for the abolition of this exemption from 2014.

with earnings less than €356 per week, the rate of employer's PRSI is 4.25%.<sup>22</sup> So taking the employer and employee contribution together the actual payment for each employee is considerably greater than that for a self-employed person, ranging from 8.25% to 14.75% compared to 4%. Table 9 sets out the rates of contribution under Class A.

**Table 8: Class S Rates of Contribution**

Weekly income band	Subclass	How much of weekly income	All income
Up to €500	S0	All	4.00%
More than €500	S1	All	4.00%

Source: DSP

**Table 9: Class A Rates of Contribution**

Weekly income band	Subclass	How much of weekly income	All income Employee	All income Employer
€38 - €352	A0	All	Nil	4.25%
€352.01 - €356	AX	All	4.00%	4.25%
€356.01 - €500	AL	All	4.00%	10.75%
More than €500	A1	All	4.00%	10.75%

Source: DSP

Details of the number of contributors and the total contribution returned under Class S are set out in Table 10 for the years 2007 to 2011. The table also shows that the proportion of contributions from the self-employed to the Social Insurance Fund has declined from 5.4% in 2007 to 4.6% in 2011.

**Table 10: Class S - Numbers of Contributors and Total Contributions**

Tax year	Number of contributors	Total contribution	Proportion of contribution to social insurance fund
2007	361,769	€420,852,000	5.4%
2008	369,319	€405,582,000	5.0%
2009	372,279	€314,787,000	4.3%
2010	340,618	€330,603,000	4.9%
2011	335,433	€348,342,000	4.6%

Source: DSP

<sup>22</sup> The lower rate of employer PRSI was halved (to 4.25%) for all jobs that pay up to €356 per week from 1 July 2011. The rate will be restored to 8.5% from 1 January 2014.

There are special arrangements in place for share-fishermen/women and this is the only category of self-employed people who are treated differently within the system of social insurance. Fishermen/women who are paid a set wage are regarded as Class A employees and the total contribution paid in respect of a fisherman/woman is 14.75% (employee and employer contribution). Where a fisherman/woman is paid solely by reference to a share of the catch, that income is subject to the Class S rate paid by the self-employed. Share-fishermen/women who are classified as self-employed and who are paying PRSI under Class S have the option to pay additional contributions (Class P). This contribution is over and above the PRSI paid under Class S. The minimum annual contribution for Class P for the year 2013 is 4% of all income in excess of €2,500, subject to a minimum contribution of €200. Class P contributions provide cover for limited Jobseeker's Benefit and Illness Benefit. This class of contribution is very much a niche category and the numbers availing of this class are small – see Table 11.

**Table 11: The number of share fishermen paying Class P**

<b>Year</b>	<b>Number</b>
<b>2001</b>	13
<b>2002</b>	12
<b>2003</b>	9
<b>2004</b>	10
<b>2005</b>	17
<b>2006</b>	16
<b>2007</b>	21
<b>2008</b>	24
<b>2009</b>	20
<b>2010</b>	19

Source: DSP

#### 2.4.2 Entitlements to means-tested payments and secondary supports

As with former employees, those formerly self-employed (or those self-employed who are ill/disabled) have access to social welfare payments such as Jobseeker's Allowance, Disability Allowance, as well as Supplementary Welfare Allowance, provided that they satisfy the appropriate means test and any other specific qualifying conditions. Self-employed people are eligible for means tested payments

in the same way as employees but there are differences in the way income is assessed. Farm Assist is a particular means tested payment which is not available to employees.

#### 2.4.3 Access to other supports and secondary benefits

Recipients of Jobseeker's Allowance can, subject to satisfying the requisite qualifying conditions, access a range of employment support measures designed to encourage and support social welfare recipients to reduce their dependency on welfare payments. Supports available include the back to education programmes and back to work schemes. In addition, a fully integrated range of services and supports is available to employers and jobseekers through the Department of Social Protection's Intreo service, which is currently being rolled out nationwide. Any person formerly self-employed who meets the criteria for and is in receipt of Jobseeker's Allowance is eligible for schemes such as the JobBridge Intern scheme, FÁS Work Placement Programme, Back to Education Allowance, Short Term Enterprise Allowance and the Back to Work Enterprise Allowance (see also next section).

Receipt of means tested payments can confer automatic entitlement or allow access to a range of secondary benefits, including the medical card, Rent or Mortgage Interest Supplement, the Household Benefit Package, Free Travel, Fuel Allowance, Back to School Clothing and Footwear Allowance and School Books Grant Scheme. Receipt of some payments can act as a *de facto* gateway payment to other, often longer term payments.

#### 2.4.4 Back to Work Enterprise Allowance

The Back to Work Enterprise Allowance scheme encourages people getting certain social welfare payments to become self-employed. To qualify a person must be in receipt of a qualifying payment, which includes Jobseeker's Allowance or Farm Assist, for at least 12 months. Furthermore, the proposed business must have been approved in advance by a Jobs Facilitator or Partnership Company. For those who qualify, the Back to Work Enterprise Allowance allows a person to keep a portion of their social welfare payment, including increases for a qualified adult and qualified children, for a maximum of two years; at 100% for the first year and at 75% for the second year.

#### 2.4.5 Different risks and needs in extending coverage

While the Live Register excludes the self-employed in its measure of the number of people signing on, Table 12 replicates data from the Department of Social Protection Annual Statistical Report that sets out the average number of self-employed persons who were excluded from the register between 2005 and 2011. The table also shows the year on year percentage change in these numbers. Between 2005 and 2007, the average number was somewhat stable at just under 2,000. This had increased almost fivefold to just over 10,000 by 2011. The most significant year on year increases were experienced in 2009 and 2010 reflecting the sharp downturn in the economy.

**Table 12: Average Number of self-employed persons excluded from the Live Register, 2005 – 2011**

Year	Self-employed	Year on Year Change
2005	1,829	
2006	1,839	1%
2007	1,925	5%
2008	2,547	32%
2009	5,651	122%
2010	8,855	57%
2011	10,377	17%

Source: DSP Statistical Report

In November 2012, 21% (87,481 people) of those on the Live Register were casual and part-time workers. This compares with 20.2% in November 2011 when there were 86,621 casual and part-time workers. It could be assumed that some of these are self-employed with atypical patterns of work and income support needs.

When examining current provisions for the self-employed, therefore, it is especially important to consider both unemployment and atypical work patterns (casual and part-time work), which require different responses in terms of income support needs. In combination with different profiles and characteristics of self-employed groups, the question becomes whether current provisions are adequate to address the risks and needs of this diverse population, especially those at highest risk.

This is especially the case when examining cases of individuals who were classified as self-employed when in fact the individual concerned would have characteristics more typical of an employee. Given that such individuals are more likely to have been involved in the construction sector, they are more likely to have suffered recent unemployment and to have higher risks of illness, disability and/or occupational injuries, than other self-employment individuals. These individuals are perhaps the only self-employed that could be collectively identified as at higher risk relative to the rest of the heterogeneous self-employed population and perhaps therefore more likely to need extended social insurance coverage. However, they already have an entitlement to Jobseeker's Allowance if they satisfy the means-test.

## **2.5 Effectiveness of current provisions**

When considering current provisions, data on the receipt of Disability Allowance and Supplementary Welfare Allowance for the self-employed are not available and it is therefore not possible to determine e.g. the number of applications allowed or appealed. However, data on the formerly self-employed in receipt of Jobseeker's Allowance are available. The vast majority applying for Jobseeker's Allowance get the payment and hence have access to both education and training supports, and secondary benefits that might be associated with it (see Table 13 below). It would appear therefore that there is not a significant issue regarding access to means-tested payments, at least in respect of unemployment assistance through Jobseeker's Allowance, for the formerly self-employed.

Tables 13 and 14 show that during the three-year period 2009 to 2011 (up to the 30th November 2011), there were 18,677 Jobseeker's Allowance claims from self-employed people, 85% of which were awarded (1,132 (6%) were disallowed with the remaining 1,669 (9%) applications withdrawn). The reason for disallowance in 913 cases was that the applicant's means exceeded the scheme's maximum limits. Other reasons for disallowance were failure to disclose means to the Department (134) and not being habitually resident in Ireland (45).<sup>23</sup> It is worth noting that the number of disallowed applications due to the applicant's means exceeding the scheme's

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<sup>23</sup> Minister for Social Protection, Dáil Written Answers, 14<sup>th</sup> December 2011.



maximum limits consistently declined over the period, as did the number of withdrawn applications.

While data are not available on how many of those applications disallowed are successfully appealed, it is possible that some of those disallowed and unsuccessfully appealed might have a genuine need. However, it is important to point out that this cohort is very small relative to the numbers successfully getting Jobseeker's Allowance. There may also be another cohort which is not applying for Jobseeker's Allowance at all even though they may be eligible. This issue would not be addressed by extending social insurance coverage, but by, for example, information campaigns. A further implication relating to a self-employed person failing to get Jobseeker's Allowance is that they would then not gain access to a range of employment and training supports where entitlement is based on being on the Live Register for a specified period.

**Table 13: Number of Jobseeker's Allowance claims from self-employed persons**

	2009	2010	2011 (to 30/11/11)
<b>Awarded Applications</b>	5,966	5,482	4,428
<b>Disallowed Applications</b>	449	373	310
<b>Withdrawn Applications</b>	596	560	513
<b>Total</b>	7,011	6,415	5,251
<b>Percentage of processed claims awarded</b>	85.1%	85.5%	84.3%

Source: Minister for Social Protection, Dáil Written Answers, 14<sup>th</sup> December 2011

**Table 14: Number of claims disallowed and reasons for disallowance**

Year	Number Disallowed	Disallowance Reason
2009	361	Applicants Means exceed the scheme's maximum limits
	61	Applicant failed to disclose their means to the Department
	13	Not Habitually Resident
	14	Other
2010	305	Applicants Means exceed the scheme's maximum limits
	37	Applicant failed to disclose means to the Department
	17	Not Habitually Resident
	14	Other
2011	247	Applicants Means exceed the scheme's maximum limits
	36	Applicant failed to disclose means to the Department
	10	Not Habitually Resident
	17	Other

Source: Minister for Social Protection, Dáil Written Answers, 14<sup>th</sup> December 2011

## **2.6 Potential parity issues and barriers in means-testing and accessing the social welfare system for the self-employed**

While current provisions at least in terms of Jobseeker's Allowance do appear adequate, a number of issues can arise in the assessment of income for the self-employed that indicate potential barriers or a lack of parity relative to former employees. These relate to determination of actual income and income sources; the treatment of capital assets; debt; spousal income; and the provision of accounts. Other issues arise in terms of whether some self-employed are fully aware of their entitlements, such that they do not apply for means tested benefits in the first place or do not take full advantage of existing entitlements. These are examined below.

### 2.6.1 Assessing Income

For the purposes of social assistance payments Social Welfare legislation sets out a number of rules for establishing a person's means and the calculation varies from scheme to scheme. Where self-employed people satisfy a means test and any other specific qualifying conditions, they are eligible for payment. The means assessment guidelines state that where the income in the coming 12 months is not ascertainable, then the income for the last 12 months should be taken as a guide, allowing for any variable factors. As in the case of former employee applicants for Jobseeker's

Allowance, the means of the husband/wife, civil partner or co-habitant are taken into account in deciding on entitlement to a payment.

In the case of Jobseeker's Allowance, the Group considered that the means test is more complex for self-employed persons than employed persons. Historically, self-employed people have not tended to access working age social assistance payments. Due to the different nature of self-employment, it is perhaps inevitable that the assessment of loss of income from reduced or no self-employment is more complicated than that occasioned by the more clear-cut cessation of an employment contract. Therefore there can be difficulties with establishing the actual income of a self-employed person and a consequent delay in getting a payment, although a person may receive a Supplementary Welfare Allowance payment while waiting for a decision on their Jobseeker's Allowance application.<sup>24</sup> In general, where a person's means are in excess of the family rate applicable to the scheme, the payment is disallowed. For example, the family rate payable for a Jobseeker's Allowance claimant aged 25 or over with a partner and one child is €342.60, comprising the personal rate and increases for both a qualified adult and child.

While some of the differences in the treatment between self-employed persons and employed persons may reflect the historical low profile of the self-employed in social assistance based schemes, the differences may also reflect the nature of self-employment itself and differences with the rest of those claiming social assistance payments. For instance, there are distinctions to be made between the self-employed person's and the employee's command over resources. Those self-employed may be able to continue to draw an income from their business even while ill or otherwise incapacitated, e.g. by managing others, in a way that an employee supplying direct labour could not. International evidence would further suggest that the self-employed are more likely to be able to make up temporary loss of earnings during periods of unemployment than employees. Finally, it is also important to recognise that a self-employed person can take into account certain outgoings as deductions from their tax liabilities, which, once again, an employed person cannot.

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<sup>24</sup> Further details on the JA means test for the self-employed are set out in Appendix 4.

### 2.6.2 Treatment of capital assets

While the house in which a person lives is not included in the assessment of means unless the person is getting an income from it, capital and the value of property (other than property personally used) is assessed as means for all schemes. Property covered by this rule includes houses, other than a person's own home, buildings or land owned but not personally used or enjoyed. Property is assessed by reference to the market value. The most common example of the application of this rule is where a person owns a second house. However, any outstanding mortgage registered against such a property is deducted from the market value to find the capital value. If the house is let, the owner is assessed with the capital value of the property, not with the rental income. Similarly, the market value of leases and ground rents is assessed as capital, but the income is not assessed as capital. In the case of Jobseeker's Allowance the first €20,000 is assessed as nil. Thereafter the weekly value of the next €10,000 is assessed at €1 per €1,000, the next €10,000 is assessed at €2 per €1,000, and any amount above €40,000 is assessed at €4 per €1,000. In the case of Disability Allowance, the first €50,000 of capital is assessed as nil means. Thereafter, the next €10,000 is assessed at €1 per €1,000, the next €10,000 at €2 per €1,000 and anything over €70,000 at €4 per €1,000.

Such assessment holds whether a person is a former employee or self-employed. However, the Group considered that this treatment of capital assets may put a self-employed person at a disadvantage where their capital assets may include their business premises. Given that a self-employed person applying for a Jobseeker's Allowance payment is experiencing financial difficulties, their capital assets could detract from the level of support that they might receive even though they might not be obtaining a financial advantage from it.

### 2.6.3 Treatment of debt liabilities

While the level of debt that a person might be liable for does not in general form part of the means assessment, allowances can be made in terms of outstanding mortgages to determine the capital value of a property or interest on borrowings. In this regard, there is no difference made between how the self-employed and the formerly employed are treated. However, for the self-employed there might be an extra degree of complexity if no distinction is made between business and

personal/family debt. In such cases it could be difficult to ascertain what the actual income of a family might be. This would be a particular problem for sole traders where family and business interests could be closely linked.

#### 2.6.4 Treatment of spousal income derived from self-employment

Where a person is married, in a civil partnership or cohabiting, the means of the spouse, civil partner or cohabitant are also taken into account in means testing. In the case of such income being derived from self-employment, then all that income (less all expenses necessarily incurred in carrying out the self-employment) is taken into account. In contrast, where a spouse is an employee, a number of disregards can apply. This means that their earnings are deducted from their payment on a tapered basis. In the case of Jobseeker's Allowance and Disability Allowance earnings of €20 a day are deducted for each day up to a maximum of €60 per week and only 60% of the balance is assessed as means. The lack of disregards for assessing income from self-employment means that in the case of Jobseeker's Allowance claimants generally, including those formerly self-employed, all their spouse's income (less expenses) from self-employment is taken into account and deducted from their payment.

#### 2.6.5 Provision of accounts

In the means assessment for a self-employed person income for the last 12 months is taken as a guide to determine the income that he or she may reasonably be expected to get from their business over the next 12 months. To prove the level of income from their business, a self-employed person must provide receipts and payments or audited accounts. However, some self-employed people might have a difficulty in providing up to date accounts. In particular, sole traders are not required to file audited accounts and many smaller companies can avail of the smaller company audit exemption. Furthermore, accounts for the previous year might not give a true reflection of the current income levels of the self-employed, although allowances can be made.

#### 2.6.6 Other issues arising within current provisions

A recent report by the Citizens Information Board on the Self-Employed and Welfare Supports found that self-employed people using Citizens Information Services are

often initially unaware of their eligibility for means-tested payments.<sup>25</sup> Submissions to the Group also reflect concerns about eligibility. Taken together, these indicate that perceptions about ineligibility may be a barrier in accessing current provisions in the first place.

## **2.7 Private insurance – income protection plans: Can they cover the gap?**

Another consideration in extending social insurance to the self-employed is the role that privately purchased income protection plans may help to offset income loss due to illness or disability. They offer financial security to qualifying participants who are out of work due to an illness or suffer a loss of earnings as a result of a disability, an injury or an accident. Loss of earnings due to unemployment is not covered. Several insurance companies in Ireland provide cover for both employees and the self-employed.

The income is paid as weekly benefit payable after a deferred period of 4, 8, 13, 26 or 52 weeks, depending on the type of plan. The deferred period is the length of time between when the illness is first diagnosed and when the participant starts receiving the income benefit. Benefit continues until the participant is able to return to work or until they reach their selected retirement age (up to 65), whichever happens first.

The cost of the income protection plan varies depending on the circumstances of the participant and the benefits required, with factors such as age, occupation, lifestyle, level of benefit and deferred period being considered in calculating the premium required. Tax relief on premiums is available at the marginal rate of tax up to a maximum of 10% of total salary. The income benefits are taxable in full.

Although data are not available on the numbers or profile of the self-employed who are availing of these schemes, the costs of purchasing these plans would mean that only those in self-employment earning a significant income would have them.<sup>26</sup> This suggests in turn that those most in need of cover for illness and disability – i.e. those

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<sup>25</sup> *Hard Times for the Self-employed. Citizens Information and MABS Experience*, Citizens Information Board Social Policy Report, p. 20.

<sup>26</sup> In 2009 there were only 27,300 people availing of tax relief for contributions under permanent health benefit schemes. Information as to the number of these who were self-employed is not available. *Revenue Commissioners Statistical Report 2010*, Table IT6, p.18.  
<http://www.revenue.ie/en/about/publications/statistical/archive/2010/index.html>

in relatively high-risk occupations and sectors not earning significant income – are the least likely to have income protection plans. Furthermore, these plans do not cover contingencies due to unemployment. Therefore the Group feels that these plans cannot be a comprehensive alternative to considering the extension of State-provided social insurance coverage to the self-employed.

## **2.8 Experiences and Directives at EU Level**

Extending social insurance coverage for the self-employed would bring the Irish social security system closer to the levels that exist in other countries. In many EU Member States coverage is more comprehensive, particularly in relation to work acquired injury (see Appendix 5). Eligibility, qualifying criteria and payment conditions differ from country to country. Contribution rates are also heterogeneous and reflect the particular nature of each system in each Member State. However, almost all countries provide cover for illness or invalidity (25 out of the 27 EU Member States (MS)), over half offer cover in some way for occupational injury or disease (18 MS) and just under half (12 MS) arrange cover in the case of unemployment. Of the countries listed, only Ireland and The Netherlands do not have any form of cover at present. Only three Member States (Hungary, Luxembourg and Slovenia) provide for all contingencies on a compulsory basis. However, it should be noted that social security systems in other MS are not necessarily provided through a general social insurance fund, as is the case in Ireland, as there may be dedicated funds organised along employment or sectoral lines. Such an approach can be found in Italy where there are different social security arrangements for accountants, doctors, nurses, architects and engineers who are self-employed. Another approach is to have a separate social insurance scheme for all self-employed workers, as is the case in Belgium. However, in the majority of EU Member States social protection for the self-employed is provided through general social security arrangements.<sup>27</sup>

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<sup>27</sup> International Social Security Association, *Handbook on the extension of social security coverage to the self-employed* (Geneva, 2012), pp 18-19.

### 2.8.1 EU directive 2010/41/EU – treatment of spouses

Under current Social Welfare provisions, there is a specific exclusion from social insurance for spouses and civil partners who take part in the business of their self-employed spouse. Under EU provisions it will be necessary to remove this exclusion.

Articles 7 and 8 of Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 relate to the provision of social protection for spouses/civil partners who carry out the same or ancillary tasks as their self-employed spouse/civil partner and the provision of maternity benefits for this cohort. In Ireland ‘a prescribed relative’ (including a spouse or life partner) of a self-employed contributor not being a partner, where he or she participates in the business of the self-employed contributor and performs the same tasks or ancillary tasks currently cannot be insured as a self-employed contributor. The effect of the Directive is to extend self-employed social insurance to this category of worker. It will therefore be necessary to dispense with the exclusion of spouses/life partners from self-employed social protection, which represents a fundamental change to the system of social protection in Ireland. It is envisaged that transposition of the Directive will

- Provide access to social protection, subject to the income of the spouse/life-partner exceeding the monetary threshold applied generally to self-employed contributors (€5,000).
- Require implementation of measures to verify the bona fides of the contribution of the spouse/life partner and the extent of that contribution, as well as fundamental changes to the administrative and business process systems to give effect to the measure.

Overall it is envisaged that the provisions of the Directive and the requisite changes to the provisions affecting the insurability of self-employed spouses/life partners will be in place by August 2014, within the 2 year extension granted for the implementation of the Directive.

Effectively spouses who participate in the business and derive income from the business will be able to access social insurance in the same way as their self-employed spouse. This means that, subject to exceeding the annual income threshold, they will pay social insurance as a self-employed contributor and gain



entitlement to the social insurance benefits which are available to those who are self-employed.

## **2.9 Conclusions**

The self-employed are heterogeneous in their employment characteristics and are involved in a range of occupations across all sectors of the economy. Over the last few years, the most important trend has been a decline of almost one-fifth in the numbers who were classified as self-employed. This has been particularly pronounced in the construction sector, where the numbers of self-employed decreased by a half. Moreover, like the employed population, the incomes of the self-employed are dispersed across the income distribution.

Since 1988 the self-employed have been compulsorily insured for long term benefits, primarily the State Pension (Contributory). Examination of issues around the extension of social insurance coverage to other contingencies – notably, for illness and disability rather than unemployment – has been made by various groups over the years, but no further changes in coverage have been made since 1988. Coverage for unemployment contingencies was often considered problematic for two reasons: 1) the self-employed already had access to social assistance payments such as Jobseeker's Allowance; and 2) there was some concern over income assessment and command over resources, which militated against extension of social insurance for short-term benefits. More recent concerns about cover for unemployment for the self-employed reflect the effects of the economic recession on employment generally and the perception that there is a gap in the coverage of income supports and/or social insurance. There are also concerns that those who might not fit the category of 'genuine' self-employment and/or who have atypical work patterns are at higher risk.

However, the numbers of self-employed qualifying for Jobseeker's Allowance does suggest that the gap in providing income supports for those who were formerly self-employed might not be as significant as perceived, though it is difficult to quantify the extent to which needs are being addressed.

Broadly speaking, the self-employed are subject to the same qualifying conditions and assessment criteria as former employees when applying for means-tested payment. However, they do face differences especially in the application of means test that assesses eligibility for income supports, compared to formerly employed persons. This may partly reflect the nature of income derived from self-employment and its consequent treatment in means-testing, and the fact that a former employee's income is somewhat easier to determine. However, these features should be kept under review in order to ensure broad horizontal equity within the system.

Furthermore, perceptions and awareness of entitlements and the nature of Class S contributions are potential barriers in taking up current provisions for the self-employed.<sup>28</sup> These issues notwithstanding, there are differences between the self-employed in terms of their income and command over resources that will be important to consider in the extension of social insurance coverage.

Finally, the extension of social insurance coverage to the self-employed would result in bringing the Irish social security system closer to the standards that exist in other EU Member States. In many EU Member States coverage is more comprehensive, particularly in relation to illness and work acquired injury. Extending the coverage to include benefits to cover periods of unemployment would bring Ireland into line with about 45% of EU Member States. In any event, recent EU legislation provides for the extension of social protection provisions to the spouses/civil partners of the self-employed.

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<sup>28</sup> *Hard Times for the Self-employed. Citizens Information and MABS Experience*, Citizens Information Board Social Policy Report, pp 20 - 21

## **Chapter 3**

### **Extending Social Insurance Coverage to the Self-Employed: Technically Feasible?**

#### **3.1 Introduction**

Chapter 2 sets the historical and current context of existing provisions for the self-employed, as well as the deliberations over the years regarding the extension of social insurance to this group. It noted that this issue has re-emerged especially as a result of the current economic crisis and the impacts it has had on certain sectors of self-employment and on self-employed incomes generally. Chapter 2 showed that existing provisions especially in the area of Jobseeker's Allowance are working well insofar as the majority of self-employed persons applying for Jobseeker's Allowance are successful; but, there may be difficulties in perception about access and a need to review some of the provisions around income assessment. Chapter 2 also examined provisions and directives for the self-employed at EU level, and suggested that extension of social insurance coverage (whether mandated through directives, or through implementing extended cover) would bring Ireland more into line with other EU Member States.

Taking these issues into account, this Chapter examines whether it is technically feasible to extend social insurance coverage to the self-employed. It first outlines difficulties in current benefit provision (largely due to the nature of qualifying PRSI contributions) before examining key issues that are likely to affect the feasibility of extended cover. It then addresses concerns about the need to maintain a social insurance record over a person's lifetime. It concludes with a discussion of the conditions under which it may be technically feasible to extend social insurance coverage.

## **3.2 Gaining access to benefits<sup>29</sup>**

The fact that Class S PRSI contributions do not count towards the social insurance contributions required for eligibility under a number of schemes, notably Jobseeker's Benefit, Illness Benefit and Invalidity Pension, is one of the key issues when considering the question of extending social insurance to the self-employed. This section reviews the principal benefit schemes that Class A contributors are currently eligible for, so as to determine what the self-employed might access if social insurance was extended to cover these schemes.

### **3.2.1 Jobseeker's Benefit**

The current Jobseeker's Benefit is based on the person being available for and genuinely seeking work. To qualify the applicant needs at least 104 weeks PRSI paid since first starting work and 39 weeks PRSI paid or credited in the relevant tax year or 26 weeks PRSI paid in the relevant tax year and 26 weeks PRSI paid in the tax year immediately before the relevant tax year. In order to qualify a person must also demonstrate that he/she has suffered a substantial loss of employment. Currently, this means that a person must have lost at least one day's employment and as a result of this loss be unemployed for at least 4 days out of 7 days (This applies from 21 February 2013 when the rules about Sunday were changed. Prior to that, a person needed to have been unemployed for at least 3 out of 6 days.) Earnings must also have been reduced because of the loss of employment. Proof of being fully unemployed or being unemployed for at least 4 days out of 7 is a fundamental requirement of Jobseeker's Benefit. This might be difficult for self-employed persons to prove.

The duration of entitlement to Jobseeker's Benefit is reduced from 3 April 2013. A person who applies for Jobseeker's Benefit after that date will be eligible to receive it for a maximum of nine months; claims made prior to that date were eligible for a maximum of 12 months.

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<sup>29</sup> Details of social welfare schemes in this section are derived from the Department of Social Protection website.

### 3.2.2 Illness and Disability Benefits

#### *Illness Benefit*

Access to Illness Benefit is subject to medical certification of being unable to work due to illness. To be entitled to Illness Benefit a person must be under 66 years of age, incapable of work due to illness, and satisfy the PRSI contribution conditions. Since January 2009, if a person has 260 or more PRSI contributions he/she can get Illness Benefit for a maximum of two years. One of the conditions for receipt of Invalidity Pension is that the person must have been incapable of work for at least 12 months. This condition can be met where the person has been in receipt of Illness Benefit for 12 months and therefore Illness Benefit is a gateway payment to Invalidity Pension in many cases.

#### *Invalidity Pension*

The current rules attaching to Invalidity Pension are based on the concept that an employee is clearly '(permanently) incapable of work' and therefore there is a clear distinction between being at work and not being at work.<sup>30</sup> 'Permanently incapable of work' is defined as having an incapacity which has existed for 12 months prior to the date of claim, and where the Deciding Officer or Appeals Officer is satisfied that the person is likely to be unable to work for one year from the date of claim. In practice, virtually all new entrants to Invalidity Pension have transferred to it from Illness Benefit. An applicant must have 260 weeks paid PRSI contributions since entry into insurance and 48 weeks PRSI paid or credited in the last complete tax year before the date of claim.

#### *Partial Capacity Benefit*

Partial Capacity Benefit is a social welfare scheme which allows a person getting Illness Benefit (for a minimum of six months) or Invalidity Pension to return to work or self-employment (if they have reduced capacity to work) and continue to receive a payment from the Department of Social Protection. From 13 February 2012 Partial Capacity Benefit replaced the previous exemption arrangements where people on Illness Benefit or Invalidity Pension could get permission to work part-time (known as

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<sup>30</sup> There are provisions in relation to rehabilitative or therapeutic employment which complicates matters somewhat.

an exemption) for rehabilitative or therapeutic purposes and keep their full social welfare payment.<sup>31</sup>

Participation on the Partial Capacity Benefit scheme is voluntary. It aims to address a limitation of the current welfare system by explicitly recognising and responding to the reality that some people with disabilities have a capacity to engage in open market employment while continuing to need some income support from the State. There is no requirement that the work a person does while on Partial Capacity Benefit has to be for rehabilitative or therapeutic purposes.<sup>32</sup> The objective of the scheme is to incentivise such people to return to the workplace without fear of loss of their disability related social welfare benefits.

To qualify for Partial Capacity Benefit the claimant's restriction on capacity for work is assessed as moderate, severe, or profound. Those assessed as mild do not qualify and their continued eligibility for Illness Benefit or Invalidity Pension is also reviewed. Disability Allowance and Blind Pension (both of which are means tested) are not qualifying payments for Partial Capacity Benefit. There is no restriction on earnings or number of hours worked. Working in a self-employed capacity is allowed while getting Partial Capacity Benefit.

Class S contributions do not qualify for eligibility for Illness Benefit. Illness Benefit is the main benefit for short-term illness cover, a gateway payment for Invalidity Pension and a qualifying condition for the Partial Capacity Benefit. This effectively means that those formerly self-employed suffering an illness or disability while in self-employment have no social protection cover for short or long term illness and invalidity/disability, unless they qualify for the means-tested Disability Allowance. It is possible, however, to work in a self-employed capacity under the Partial Capacity Benefit. Furthermore, some self-employed suffering illness or disability may have privately funded income protection plans.

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<sup>31</sup> Those who had this permission when Partial Capacity Benefit was introduced were not immediately affected. When their permission comes up for review, the exemption will no longer be available to them but they have the option of applying for Partial Capacity Benefit.

<sup>32</sup> They may not work until they have received written approval to do so from the Department. They should also get the approval of their doctor before taking up employment.

### 3.2.3 Occupational Injuries Benefit Scheme

The Occupational Injuries Benefit Scheme is a group of benefits for people injured or incapacitated by an accident at work or while travelling directly to or from work. The scheme also covers those who have contracted a disease as a result of the type of work they do. There are a number of benefits available and there are different conditions attached to each benefit. The benefits are:

- *Injury Benefit*: A weekly payment if a person is unfit for work due to the accident or disease. It can be paid for up to 26 weeks from the date of accident or development of the disease.
- *Disablement Benefit*: Is paid if a person has a loss of physical or mental faculty after an accident or disease. The applicant does not have to be unfit for work. A medical assessment is conducted to determine the degree of loss of faculty and the rate of benefit is based on this. Disablement Benefit can be paid as a lump sum (called Disablement Gratuity) or as a weekly payment (called Disablement Pension).
- *Incapacity Supplement*: A weekly supplement which may be paid if a person is not eligible for Illness Benefit or another social welfare payment. To get the supplement the recipient must be getting Disablement Pension and be permanently incapable of work.
- *Constant Attendance Allowance*: A weekly allowance which may be paid if a person is getting Disablement Benefit and is so seriously disabled as to need someone to help them at home on a daily basis so as to attend to their personal needs.
- *Medical Care Scheme*: covers certain medical costs as a result of an occupational injury or disease and which expenses are not already covered by the Health Service Executive (HSE) or through the Treatment Benefit Scheme.

Unlike other social insurance benefits it is not necessary to have a set number of PRSI contributions to qualify. It is simply necessary to be in employment which is insurable for Occupational Injuries. It is the employer and not the employee who makes the contribution towards the Occupational Injuries Fund.

### **3.3 Feasibility implications for extending social insurance coverage**

The Group considered that there is merit in considering the extension of social insurance coverage for the self-employed, in order to address some of the gaps identified above. However, there would be a number of implications, which could impact upon the technical feasibility of extending cover to address specific contingencies.

### 3.3.1 Legislative and administrative arrangements

Extending full social insurance cover to self-employed people would be a significant development in the social welfare code and would require amendment to both primary and secondary social welfare legislation. This would take time and resources to draft amending legislation, conduct social and regulatory impact analysis and then to implement. The cost issues associated with extending social insurance cover over and above legislative and administrative issues is dealt with in the next chapter.

There are a number of administrative changes that would require a sufficient lead-in time and resources to facilitate the smooth rollout of an extension of any scheme.

Issues to consider here include:

- developing the details of the scheme;
- agreeing eligibility conditions;
- putting operational arrangements in place;
- maintaining adequate resources to sustain the level of medical examination and reviews associated with any such extension of the scheme.

### 3.3.2. PRSI Arrangements

A self-employed person who pays Class S PRSI is awarded 52 weeks contributions regardless of number of weeks worked, whereas a Class A contributor's record reflects actual number of weeks worked. The application of existing contribution conditions for a self-employed person where 52 contributions are recorded regardless of the actual number of weeks worked could result in differences in qualifying for benefits, for example if the number of contributions is used as a qualifying condition for a benefit. This technical feature around the operation of the PRSI system would seem to work in favour of self-employed contributors.

Due to timing differences in submitting tax returns between self-employed people and employees, it may be necessary to use a different 'Relevant Tax Year' in assessing if the relevant contributions have been paid. Again, this could give rise to differences in determining qualifying contributions between the self-employed and employees.



### 3.3.3 Determining and notifying capacity to work: Control issues

In 1993 the National Pensions Board pointed out in their Final Report that:

Many self-employed people can continue to draw an income while suffering the sort of disabilities which would qualify an employee for an Invalidity Pension. Employees, moreover, have to give up their employment to qualify for the pension, but it would not be feasible to apply this condition to self-employed people who own their own farms or business.<sup>33</sup>

These questions would have to be addressed if it is decided to extend social insurance to cover illness/invalidity contingencies, or indeed unemployment contingencies, to self-employed contributors. To ensure consistency of treatment with employees it would be necessary to ensure 1) that the self-employed person is incapable of work to the specified degree; and 2) that they could draw no income from their business or through their employees (which could include spouses and/or other family members living in the same household). More difficult to determine, but still important, is whether there is a reasonable expectation that the self-employed person will be able to make up for temporary losses in income in a way an employed person cannot. The duration of loss of income and the severity of its impact on a self-employed person therefore may not be as significant as might be the case for an employed person. Recognising that this is not necessarily true for all self-employed, nevertheless it does raise issues about how long and how much replacement income might be needed.

All of the Department's schemes for illness/incapacity contain a qualifying condition in relation to 'incapacity to work'. In most circumstances, it will be apparent that an employee is 'at work' or 'out sick'. This is not so straight forward to demonstrate for the self-employed. A person in business might be so incapacitated as to be not physically capable of carrying out the work personally, whilst simultaneously being quite able to direct or supervise an employee in the performance of the same work. The self-employed person might also be capable of continuing the overall general management of the business, and indeed in many instances the self-employed person would find it desirable to do so. Furthermore, in the case of an employee declaring him or herself to be sick and claiming benefit, an in-built control measure is in place in that the employer can independently verify the employee is not attending

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<sup>33</sup> *Developing the National Pensions System, Final Report of the National Pensions Board*, p 147.

work. However, in respect of the self-employed, the Department would be reliant on the contributor to self-certify their non-participation in the business for the duration of the claim and this could be open to misuse.

Finally, employment support measures are becoming increasingly important for illness and disability schemes. While the eligibility conditions for these schemes state that someone must be permanently incapable of work, there is an increasing emphasis on making the schemes more employment friendly through an increased focus on the capacity of a person to be involved in education, training or employment. In this regard, it is noteworthy that recipients of the Partial Capacity Benefit are allowed to work in a self-employed capacity.

#### 3.3.4 Compulsory or voluntary contributions in extension of cover

A second significant issue in considering parity between the self-employed and the employed is whether contributions should be compulsory (as is the case for PRSI contributions for employees, and for the State Pension (Contributory) for the self-employed) or whether contributions towards extended cover should be voluntary. A number of submissions received during the consultation process considered this question. The majority of submissions favoured a voluntary approach while only two recommended the introduction of a mandatory higher contribution rate in the event of social insurance being extended for the self-employed (see Appendix 2).

A model exists for voluntary contributions in the opt-in/opt-out coverage of share-fishermen, depending on their circumstances. When involved in self-employed share-fishing they can make optional Class P contributions in addition to their compulsory Class S contributions which then entitle them to a limited range of further benefits. This measure however covers only an extremely small number of persons (19 in 2010) and social insurance coverage for the vast majority of people in employment is compulsory.

Enabling contributors to voluntarily opt-out of paying contributions for extra benefits could be an alternative method of contribution. Under a voluntary opt-out or auto-enrolment system, self-employed contributors would automatically be levied the rate analogous to the full range of benefits. However, each contributor could elect to pay

the lower rate that would be akin to the limited range of benefits as currently stands. To do so they would have to make a formal written application to pay the lower rate. Such schemes are based on the assumption that only a minority of individuals would go to the trouble of electing to pay the lower rate. However, allowing people the facility to opt-in or out at their own discretion could lead to the selection of bad risks. It could also result in a negation of the social solidarity and contributory principles which underline the social insurance system.

When social insurance for the self-employed was originally introduced in 1988, the then Minister for Social Welfare, Dr Michael Woods, explained the rationale for introducing the measure on a compulsory basis:

The scheme will be compulsory for all self-employed persons just as the scheme for employees is compulsory. The suggestion has been made that self-employed persons who are in a position to make their own pension arrangements should be free to opt out on the grounds that this would ultimately result in net savings to the Exchequer. In fact, the opposite would occur. A selective scheme under which self-employed persons on higher incomes opted out would result in the social insurance scheme being left with what might loosely be termed the bad risks and the net cost to the State would therefore be much higher. Every pension scheme is based on a mixture of good risks and bad risks and this is particularly the case with social insurance schemes under which coverage is so broadly based.<sup>34</sup>

This rationale is still relevant to current considerations of the technical feasibility of extending social insurance cover. Therefore, the Group recommends that any extension of PRSI entitlements to the self-employed is on a compulsory basis as doing so on a voluntary basis could lead to the selection of bad risks and would undermine the social solidarity and contributory principles of the social insurance system.

### **3.4 Maintaining the social insurance record**

#### **3.4.1 Credited contributions**

A third significant issue in establishing parity between employees and the self-employed is that of credited contributions. Credited contributions (credits) are social insurance contributions which are awarded to an insured person without a PRSI

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<sup>34</sup> Dáil Éireann - Volume 378 - 09 March, 1988, Social Welfare Bill, 1988: Second Stage.  
<http://www.oireachtas-debates.gov.ie>

payment being received from the insured person. Credits are awarded in circumstances such as unemployment and illness, and their purpose is to help protect the social insurance entitlements of insured persons during periods when they may not be in a position to pay contributions. In order to qualify for credits, a person must first have entered insurable employment - he or she must have paid at least one PRSI contribution as an employed contributor.

Credits may help insured workers to qualify for various social insurance benefits. While the contribution conditions applying to the various insurance benefit schemes can vary, a claimant must, in general, have

- i. Paid a minimum number of weekly contributions (ranging from 52 for short-term benefits to 260 in the case of pensions), **and**
- ii. Have a certain number of contributions or credits over a specified period; in the case of short-term benefits this is the relevant tax year, while in the case of long-term benefits (e.g. pensions) this is on the basis of the yearly average number of contributions and/or credits over the person's working life.

If there is a gap of more than two completed tax years, a person must work and pay contributions for a further 26 weeks before s/he qualifies for credited contributions.

A person who was previously insured under Class S does not receive credited contributions if s/he becomes unemployed or sick. As a result formerly self-employed people, despite receiving a social assistance payment and being on the Live Register do not get credited contributions. Given that credited contributions are important in determining the yearly average of contributions necessary for pension purposes, the consequences of remaining outside the social insurance system are that a person will have insurance gaps. This may cause problems in terms of eligibility for the State Pension (Contributory) at 66.

#### 3.4.2 Voluntary Contributions

Another way of maintaining the social insurance record is through voluntary contributions. Both self-employed and employed individuals can make these contributions, but there is some evidence of poor take-up especially amongst the self-employed. Again, this may have consequences in terms of eligibility for the State Pension (Contributory) at 66.

Voluntary Contributions are optional PRSI contributions for those who are between the age of 16 and 66 and who are no longer covered by compulsory PRSI by way of insurable employment, self-employment or credited contributions. Payment of Voluntary Contributions can help maintain or improve a person's contributory pension entitlements. If a person is no longer liable to pay Class S PRSI (for example, ceasing self-employment or income from self-employment falling below the €5,000 limit) and is under age 66, s/he may apply to become a voluntary contributor. Voluntary contributions provide cover for the social insurance payments included under Class S PRSI. To be eligible to make voluntary contributions a person must:

- Have at least 260 weeks PRSI paid under compulsory insurance in either employment or self-employment;
- Apply to make the voluntary contribution within 12 months after the end of the last completed tax year (contribution year) during which compulsory insurance was last paid or a credited contribution awarded;
- Agree to pay voluntary contributions from the start of the contribution week that follows the week in which s/he leaves compulsory insurance.

Formerly self-employed people pay an annual 'special' contribution of €500 if the last PRSI contribution was at Class S;<sup>35</sup> if PRSI was paid at Class A, E or H a high rate of 6.6% of the previous year's earnings is applied to determine the amount of voluntary contributions to be paid.<sup>36</sup> It is likely that a significant number of formerly self-employed people who are now receiving Jobseeker's Allowance are not paying insurance as Voluntary Contributors.<sup>37</sup> Possible reasons for this are that people do not know or understand about the voluntary contribution scheme and its importance or they may feel that paying the annual contribution is not a priority in terms of their immediate needs. As a result of people not making voluntary contributions, there is a likelihood that some formerly self-employed and employed people may be excluded from insurance-based pension entitlements in the future.

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<sup>35</sup> Budget 2013 provided for an increase in the flat rate of Voluntary Contributions made by former self-employed contributors from €253 to €500.

<sup>36</sup> The Legislation dealing with voluntary contributions is Chapter 4 of Part II of the Social Welfare Consolidation Act 2005, and Articles 28 to 37 of the Social Welfare (Consolidated Contributions and Insurability) Regulations, 1996 (SI 312 of 1996).

<sup>37</sup> In 2009, there were 2,806 voluntary contributors.

### **3.5 Conditions under which it may be technically feasible to extend social insurance coverage**

This chapter began with an examination of the current gaps in social insurance coverage for the self-employed. The main argument in favour of extension of social insurance for the self-employed is that of improving the comprehensiveness of the social insurance system and ensuring parity of treatment between the self-employed and the employed, while recognising that the characteristics, risks and needs of the two groups are not identical (either between the two groups or within each group).

#### 3.5.1 Past examinations of extending cover and issues arising

There are strong historical precedents arguing for the extension of social insurance coverage. According to the Commission on Social Welfare (1986) 'any social security system must be comprehensive if it is to be effective. The system should not be designed in such a way that significant claimant categories or categories of need are left outside of the main structures of payments.'<sup>38</sup> The Commission then went on to say that 'a sense of entitlement to benefit is an important principle which should underlie the social welfare code, and this sense of entitlement is most easily achieved in the social insurance system where benefits are paid as of right on the basis of contributions paid.'<sup>39</sup> While social insurance cover for self-employed has been extended for some long-term benefits (old age and widows), this is not the case for long-term illness benefits. As noted by the National Pensions Board in the context of considering the extension of invalidity pensions to the self-employed, 'self-employed contributors are at the same risk of both temporary and permanent incapacity for work as employed contributors'.<sup>40</sup>

However, the National Pensions Board also noted that the risk of loss of income for the self-employed, in the event of incapacity, is not the same as for employees, given that many self-employed people could continue to draw an income from their own farms or businesses while ill or disabled. An issue might also arise if the management of the self-employed contributor's business passes to another member of the household and therefore the household could then benefit from the income

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<sup>38</sup> Commission on Social Welfare, p. 125.

<sup>39</sup> *Ibid.*, p. 164.

<sup>40</sup> *Developing the National Pension System, Final Report of the National Pensions Board*, p. 147.

even though the insured person could be entitled to a payment. There is still validity in the National Pension Board argument in that many self-employed continue to receive an income while ill/disabled. The same argument can be advanced in relation to access by self-employed persons to unemployment payments. These issues of command over resources; controls in terms of self-certification; and determining incapacity to work present significant challenges for the technical feasibility of extended cover.

The question also arises as to whether all self-employed persons could rely on such an income. Given the different forms of self-employment, many self-employed people are entirely dependent on their own day-to-day labour for the generation of their income. The latter group clearly has a need for cover for the contingencies of unemployment, illness /injury or invalidity in a way that a person who can still draw an income from their business does not.

#### 3.5.2 Rates and method of contributions

Questions also arise as to what rate of contributions should the self-employed pay and whether payment should be on a compulsory or voluntary basis. On an equity basis, extending the range of benefits available to the self-employed would entail an increase in their rate of social insurance. The rate levied should therefore be commensurate with the level of coverage.

Given the potential implications of adverse selection and the principles underlying social insurance coverage, the Group determined that a voluntary approach would not be technically feasible. Those who would represent a good risk would most likely self-select themselves to remain out of the scheme. This would leave the State to fund the deficit and thus undermine the concept of social solidarity in the provision of social insurance.

#### 3.5.3 Credited contributions and maintaining the social insurance record

Given concerns regarding the equal treatment between employees and the self-employed, the issue of a person, who was previously insured under Class S, not receiving credited contributions while unemployed or sick and the possible implications of this in terms of eligibility for the State Pension (Contributory) needs to be addressed. The Group understands that the Department of Social Protection is

undertaking a review of the credit system. Greater awareness of the role of voluntary contributions may also help here.



## Chapter 4

### Financial Achievability of Extending Social Insurance Coverage to the Self-Employed

#### 4.1 Introduction

Chapter 3 examined issues arising from potential barriers and parity issues in current provisions for the self-employed and then identified a number of issues that would affect the technical feasibility of extending social insurance coverage. This Chapter examines the financial achievability of extending cover; in terms of costs and rates of contribution, and draws on data from the Actuarial Review 2010.<sup>41</sup>

#### 4.2 Costs

A number of difficult issues would need to be addressed before an adequate plan for the extension of social insurance to the self-employed could be devised and costed in a cost neutral or cost reducing manner (as required by the Group's Terms of Reference). There would be considerable uncertainty about potential take-up as there is a lack of statistics relating to the probability of self-employed people needing access to these additional benefits. Furthermore, account would have to be taken of those self-employed who are currently receiving a social assistance payment or Supplementary Welfare Allowance. These estimates would also have to include an amount in respect of the extra benefits for which some self-employed might qualify if entitled to a social insurance payment (such as the Household Benefit Package). Administrative costs which would be incurred would also have to be taken into account, for example, additional staff, IT, medical examinations and reviews.

The National Pensions Board, assuming a similar pattern of claims based on experience of the schemes for employees, estimated that the cost of extending Invalidity Pension to self-employed people could be as high as €85 million (or £67

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<sup>41</sup> Department of Social Protection (2012) Actuarial Review of the Social Insurance Fund 31 December 2010. Undertaken by KPMG on behalf of the Department of Social Protection. DSP: Dublin.  
<http://www.welfare.ie/en/downloads/2010actuarialreview.pdf>

million) in 1992 terms. It concluded that it would be very expensive to extend social insurance cover to self-employed.<sup>42</sup>

The 2005 Actuarial Review of the Social Insurance Fund noted that self-employed workers generally achieve better value for money by paying social insurance compared to employees. In terms of benefits, the 2005 Actuarial Review found that the self-employed contributor can expect to receive over ten times what he/she contributes to the social insurance fund. This compares to an employee who only gets three times what he/she and his/her employer contribute, despite the fact that the range of benefits available to employees is greater. Similarly, the 2010 Actuarial Review concluded that the self-employed achieve better value for money compared to the employed.<sup>43</sup>

It could be argued that if unemployment, illness/injury and invalidity payments were extended to self-employed people on a cost neutral basis (i.e. that the contribution rate was increased to cover additional costs), there would be corresponding savings on the social assistance payments (Jobseeker's Allowance/Farm Assist, Disability Allowance & Supplementary Welfare Allowance). People who would formerly have been eligible for these means tested benefits would no longer require them as they would have an entitlement to a benefit on the basis of their insurance record.

#### **4.3 Rate of contribution for the self-employed**

Any extension of social insurance based benefits to self-employed contributors would have significant financial implications. Spending on social insurance benefits would have to be funded by increasing the PRSI contribution rate for the self-employed, or increasing the deficit of the Social Insurance Fund with implications for rates of other contributors in the future.

As outlined in Chapter 2 the current rate of Class S PRSI is 4% of all income including unearned income. Share-fishermen/women who are classified as self-employed and who are paying PRSI under Class S have the option to pay additional

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<sup>42</sup>National Pensions Board (1993) Developing the National Pension System, Final Report of the National Pensions Board, Government Stationery Office: Dublin, p. 147.

<sup>43</sup>Department of Social Protection (2012) Actuarial Review of the Social Insurance Fund 31 December 2010. Undertaken by KPMG on behalf of the Department of Social Protection, pp 10, 77.

contributions (Class P) of 4% on all their income in excess of €2,500, subject to a minimum contribution of €200, which provides cover for limited Jobseeker's Benefit and Illness Benefit. However, full-rate Class A PRSI employees pay 4% of income (not including unearned income, though Budget 2013 provides for this exemption to be abolished from 2014), while employers make a PRSI contribution of 10.75%. So the payment for each employee is considerably greater than that for a self-employed person, ranging from 8.25% to 14.75% compared to 4%. The 2010 Actuarial Review demonstrated this inequity by calculating that the actual rate required to cover the State Pension (Contributory) for the self-employed would be 14.9%.<sup>44</sup>

If the full range of benefits were to be made available to the self-employed, then in the interests of parity, a comparable contribution rate to that of full-rate Class A contributors, including the employers' contribution, would need to be the minimum rate levied. On the other hand if extension of social insurance entitlements were extended to the self-employed to a lesser degree than that made available to full-rate Class A contributors, then different rates should apply.

It should be borne in mind that increasing the rate of PRSI for the self-employed would have implications for the top marginal tax rates, which are an important consideration in the economy. The marginal tax rate includes income tax, USC and PRSI. While the highest marginal rate is 52%, there is currently a temporary USC surcharge of 3% on self-employed incomes over €100,000 which is due to expire in 2014.

#### **4.4 Actuarial Review of the Social Insurance Fund**

The Social Welfare (Consolidation) Act 2005 makes provision for the carrying out of actuarial reviews of the Social Insurance Fund. The review informs short, medium and long-term policy development in relation to the Social Insurance Fund generally. It considers the adequacy or otherwise of the current contributions to finance the various social insurance benefits and pensions.

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<sup>44</sup> *Ibid.*, p. 90.

The Actuarial Review of the Social Insurance Fund as at 31 December 2010 was published in September 2012. The Review presents projections for the Fund covering a 55 year period from 2011 to 2066, based on a set of agreed assumptions and a series of projections of the Fund's income and expenditure for the period. Part of the scope of this Actuarial Review was to project the long-term cost implications to the Social Insurance Fund and the break-even contribution rates required to provide Invalidity Pensions and Jobseeker's Benefit payments for self-employed workers.

With regard to the self-employed in general, the Review concludes that, in line with previous reviews, under the present arrangements:

The self-employed achieve better value for money compared to the employed – when the comparison includes both employer and employee contributions in respect of the employed person.

The Review also observes that this value for money is greatest for those on the lowest incomes.<sup>45</sup> The full cost of providing the maximum State Pension (Contributory) requires a PRSI contribution of approximately 15%. While the current Class S contribution is 4%, the effective rate is assessed at 3.7%, as some self-employed people pay a flat rate contribution. The Review also noted that the minimum contribution rate of €253 by Class S contributors has remained unchanged since 1988. An uprating of this amount with CPI (for each year 1989 to 2011 inclusive) would increase the figure to €457 in 2012.<sup>46</sup>

The review specifically examines the impact of extending Invalidity Pension and Jobseeker's Benefit to the self-employed from 2013. The assessed costs arising from such an extension are mainly based on the assumption that the proportion of self-employed who would access the benefits would be the same as the current proportion of employees. This would mean that the costs of the schemes would increase by 12% (this is based on the distribution of PRSI contributors at 31 December 2010).

The Review also provides some costings on the assumption that the take up of benefits by the self-employed would be lower or higher than the take up by

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<sup>45</sup> *Ibid.*, pp 10, 77.

<sup>46</sup> *Ibid.*, p. 77. Budget 2013 provided for an increase in the minimum payment to €500.

employees. The Review projected the average contribution rate a self-employed person on national average earnings (currently just under €690 a week) would need to pay to meet the present value of the projected costs of these benefits. It concluded that the contribution rate that would be required to cover the full cost of the State Pension (Contributory) for the self-employed would be 14.9%. The contribution rate required to cover the State Pension (Contributory) and Jobseeker's Benefit would be 15.9% while a rate of 16.4% would be required to cover the State Pension (Contributory) and Invalidity Pension. The Review notes that these contribution rates are far in excess of the current effective PRSI rates being paid by Class S contributors.<sup>47</sup>

#### **4.5 Financial achievability of extending social insurance coverage**

The lack of data about the extent to which self-employed people would need access to additional benefits presents certain difficulties in costing the extension of social insurance to the self-employed. Assuming that the incident rates for the self-employed are the same as for the population as a whole, the Actuarial Review calculated that an extra 1 percentage point would be required to provide coverage for Jobseeker's Benefit (this, of course, was based on a maximum duration of 12 months for the payment of the benefit; this has now been reduced to 9 months); and an extra 1.5 percentage points would be needed to provide coverage for Invalidity Pension. Given the range of sectors that the self-employed are occupied in (including high risk categories such as construction and agriculture) and the prevalence of atypical work patterns the risks that self-employed people face might be greater in terms of occupationally acquired injuries. On the other hand, self-employed people might be more motivated to stay in work.

The Actuarial Review also noted that the self-employed are currently obtaining better value for their level of contributions compared to employees. While the rates that would be required to extend social insurance for the self-employed might appear to be financially achievable, it is clear that this group are already paying low contribution rates for their current range of benefits. Furthermore, the minimum level of contribution (€253 a year) remained unchanged from the introduction of social

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<sup>47</sup> *Ibid.*, pp 88 – 91.

insurance for the self-employed in 1988 until Budget 2013 provided for an increase to €500 a year.

Therefore it is potentially financially achievable to extend unemployment, illness/injury and invalidity payments to self-employed people on a cost neutral basis if appropriate decisions are made in relation to higher contribution rates. However, to do so, issues regarding the current level of contributions and the benefit obtained will have to be addressed; as will issues raised regarding the technical feasibility of extended cover. In any event, extending social insurance to the self-employed will necessitate an increase in their contribution rate.

## Chapter 5

### Conclusions and Recommendations of the Group

In considering the extension of social insurance cover to the self-employed and whether or not such cover is technically feasible and financially sustainable, the Group deliberated firstly on what income supports are currently available to the self-employed and secondly to what extent the self-employed might need access to such supports in order to provide for contingencies such as illness or unemployment. Subsequently the Group considered how the means of self-employed people are assessed for the purposes of means tested payments. It then examined the nature of their social insurance contributions including voluntary and credited contributions. Finally, the Group considered a range of issues concerning the self-employed including access to activation supports, disguised self-employment and the provision of information regarding entitlements.

#### 5.1. Unemployment

The current debate surrounding social insurance for the self-employed has focussed principally on the issue of the self-employed not having access to the non means-tested Jobseeker's Benefit payments. The current Jobseeker's Benefit is based on a person being available for and genuinely seeking work and having the requisite number of contributions under the relevant contribution class. As Class S contributions do not count towards Jobseeker's Benefit, the Advisory Group concluded that there is a perception that the self-employed are not eligible for any social welfare support while unemployed. This is not the case. The existing system of social assistance or means tested payments, through Jobseeker's Allowance, provides support to those who were formerly self-employed. In particular the Group noted that during the period 2009 to 2011 there were around 20,000 Jobseeker's Allowance claims from self-employed people, 85% of which were awarded. This was at a time when the numbers of self-employed declined by about 42,600 from the first quarter of 2009 to the first quarter of 2012.

The Group concluded that the perception that the self-employed are not eligible for income support during unemployment is not borne out in the actual outcomes for Jobseeker's Allowance applications. Therefore the Group was not convinced that

there is a need for the extension of social insurance for the self-employed to provide cover for Jobseeker's Benefit. In this regard, the Group found that the current system of means tested Jobseeker's Allowance payments adequately provides cover to self-employed people for the risks associated with unemployment.

## **5.2. Illness and injuries**

In the case of what contingencies should be covered, the Group found that the self-employed faced risks associated with illness or acquired injuries arising from their engagement in work just as the employee population faces these risks. Moreover, these risks are not so much associated with employment status, but rather the occupational sector that a person is engaged in. Furthermore, in international terms Ireland is unusual in this regard. In most EU member states provision is afforded to the self-employed to cover for occupational injuries or sickness. Therefore, the Group was of the view that social insurance for the self-employed should be extended to provide cover in terms of contingencies related to long-term sickness or illness. Furthermore, cover in this regard should be provided irrespective as to whether or not the sickness or illness was acquired through work.

In determining that social insurance for the self-employed should cover contingencies relating to ill health or incapacity, the Advisory Group was cognisant of the fact that some self-employed people could continue to obtain an income while suffering an illness whereas an employee, while experiencing a similar illness, might not. Therefore being "incapable of work" is not as straight forward for a self-employed person, as a self-employed person might retain the capacity to manage a business while ill or could pass the business on to another family member and continue to draw an income from that business while claiming a benefit payment. There would therefore be significant control issues in ensuring that the benefit payment for incapacity to work due to illness is not used to supplement existing incomes but would rather be an income support while the beneficiary has lost the capacity to earn an income.

Furthermore, given the control difficulties that might arise with a self-employed person self-certifying their non-participation in their business, the Group considered that it would not be appropriate to extend social insurance to the self-employed for



short-term illness income supports, such as Illness Benefit or Occupational Injuries Benefit. The extension should therefore be limited to longer term illness and disability supports, such as Invalidity Pension and the Partial Capacity Benefit.

**Recommendation 1:** Social Insurance for the self-employed should be extended to provide cover for people who are permanently incapable of work because of a long-term illness or incapacity. To this end Class S benefits should be extended to include Invalidity Pension and the Partial Capacity Benefit.

Currently, almost all new entrants to Invalidity Pension transfer to it from Illness Benefit. As it is not envisaged that Class S benefits would be extended to include short term illness payments, such as Illness Benefit, the route for the self-employed to Invalidity Pension would be markedly different from that of employees. Under the current rules of this scheme, permanently incapable of work is defined as having an incapacity which has existed for 12 months. Therefore self-employed persons would have to fulfil this condition along with the conditions associated with the level of contributions made.

### **5.3. Voluntary or compulsory contributions**

Given that extra social contributions would be required in extending social insurance cover for the self-employed, the question arises as to whether these should be made on a compulsory or voluntary basis. The Group concluded that extension on a voluntary basis, through either an 'opt in' or 'opt out' basis, could lead to the selection of bad risks and would undermine the social solidarity and contributory principles that underline the social insurance system.

**Recommendation 2:** The extension of social insurance to the self-employed to provide cover for long term ill health or incapacity should be on a compulsory basis.

### **5.4. Rate of contribution**

In determining whether social insurance for the self-employed should be extended, the Group was guided by the findings of the 2010 Actuarial Review of the Social Insurance Fund. In this regard, the Review found that the cost of extending cover for Invalidity Pension was 1.5 percentage points extra PRSI contribution. An increase in

the level of contribution by this amount was considered by the Group to be financially achievable. On the other hand, the Group also noted that the self-employed are obtaining better value for the level of their current social insurance contributions than employees. The Actuarial Review points to a shortfall in the rate currently levied on Class S contributors and the level that would be required to cover the benefits that they are currently entitled to, particularly the State Pension (Contributory). The continuation of these arrangements will have implications for the future funding of the Social Insurance Fund.

**Recommendation 3:** In extending social insurance to the self-employed to provide for contingencies related to long term ill health or incapacity, the rate of contribution for Class S should be increased by at least 1.5 percentage points. This is in line with the findings of the 2010 Actuarial Review of the Social Insurance Fund, which estimated the level of contributions needed to provide access for the self-employed to Invalidity Pension.

### **5.5. Means assessment**

The Group considered that the means assessment for the self-employed in terms of accessing Jobseeker's Allowance payments was more complex than that for those who were formerly employees and that this complexity could give rise to delays in accessing income support payments. While the different nature of self-employment may mean that it is inevitable that there will be technical reasons for differences in the assessment of self-employed income compared with employment income, it is important that the principle of equity in the assessment of income between both categories is observed and that differences should be kept under review. However, it is recognised that there are difficulties in ascertaining the actual income of a self-employed person given that business income and family income might not always be clearly distinct.

With regard to the methodology for assessing means for Jobseeker's Allowance where the applicant's spouse is self-employed, similar considerations arise. Where a spouse is an employee, a number of disregards apply. In contrast, in the case of self-employed persons, all the income from self-employment (less expenses) is taken into account in the means test. Furthermore, the lack of disregards for those

self-employed in receipt of Jobseeker's Allowance means that all current earnings from self-employment are taken into account, resulting in every euro a person earned from self-employment, being deducted from their Jobseeker's Allowance payment. In contrast, when Jobseeker's Allowance recipients engage in part-time or casual work their earnings are deducted from the Jobseeker's Allowance payment on a tapered basis.

**Recommendation 4:** The Department of Social Protection should consider how the methodology for assessing means for Jobseeker's Allowance could be simplified, with a view towards ensuring that the principle of equity in assessment of incomes of households in similar income circumstances is observed in a consistent manner, while bearing in mind technical factors in and differences between assessing employed and self-employed incomes. Such actions could include:

- Consideration as to how income derived from self-employment is treated in line with income from employment.
- The use of withdrawal tapers and income disregards.
- The treatment of spousal earnings from self-employment.

## **5.6. Social Insurance Contributions**

Ensuring that self-employed people maintain their social insurance record and avoid problems when they apply for a State Pension will help to protect those entitlements that the self-employed are already provided for under Class S contributions. There are proposals to change the criteria for the State Pension towards a total contributions approach based on a total of 30 years contributions being required for full pension qualification (of which a maximum of 10 years may be credits). The importance of maintaining a person's social insurance record is therefore now all the greater as any gaps might result in problems when eligibility for the State Pension (Contributory) (currently at age 66) is being determined. Consequently, there is a need for self-employed people to be aware of the importance of maintaining their social insurance record through voluntary contributions.

While a self-employed person may make voluntary contributions, if they become unemployed or sick, they do not receive credited contributions. In comparison credited contributions can be received by employees insured under other PRSI

classes and the purpose of such contributions is to help protect the social insurance entitlements of insured persons during periods when they may not be in a position to pay contributions. Therefore, there appear to be differences in the treatment of self-employed persons and employees. It is not clear whether these are technical features of the social insurance system or inequities in treatment between groups. To the extent that they represent the latter, they should be rectified to help minimise gaps in social insurance records and potential problems at retirement age. The Group is aware that the Department of Social Protection is undertaking an overall review of the credits system and considers that this issue should be examined as part of the review.

The Group briefly discussed the broader issue of equity in the social insurance system and particularly the findings in the recent actuarial review that self-employed persons were benefitting disproportionately from the system as it existed. However, the Group concluded that its Terms of Reference were to examine issues around extension of coverage to additional benefits for the self-employed, rather than considering the equity of treatment between the self-employed and other groups and potential implications for the financial position and sustainability of the social insurance system as a whole.

**Recommendation 5:** The question of whether credited contributions to people previously insured under Class S and who are not making a PRSI payment should be provided at the Class S rate, while they are in receipt of an unemployment or sickness related payment, should be considered as part of the Department of Social Protection review of the credits system.

### **5.7. Activation supports**

Given that Jobseeker's Allowance provides access to a range of activation options in terms of education and training, there is a need to consider how the formerly self-employed can access such options, even when they might not qualify for the payment or while a decision is being made about their application. In particular, it was noted that while the level of education for the self-employed has improved over recent years, this group were less likely to engage in further education and training. Moreover, the sector of the self-employed that experienced the most significant

decline was construction. Those who were formerly self-employed in that sector are more likely to have lower educational attainment than other self-employed groups. They need to be facilitated in accessing training for other sectors of the economy, as it is unlikely that there will be significant growth in construction for the foreseeable future. Gaining access to education and training opportunities will facilitate this group to obtain new skills more appropriate to the future needs of the economy.

**Recommendation 6:** The eligibility criteria for non-income support based activation and training schemes should be modified to enable self-employed people gain access to such schemes, if they do not qualify for jobseeker's payments. However, the Group did not wish to establish an entitlement to an income support based payment where no entitlement currently exists.

### **5.8. Information provision**

The Group found that there appear to be information deficits on the part of the self-employed regarding entitlements to social welfare payments and social insurance contributions. In particular, there is a perception that the self-employed are not entitled to income supports while unemployed. This is clearly not so, as the majority of self-employed people who apply for Jobseeker's Allowance do qualify for it. There also appears to be a misconception that self-employed persons need to de-register as being self-employed if they make a claim for a social welfare payment. In other situations individuals have been advised, erroneously, that they need to cease being self-employed so as to qualify for a social assistance payment. There is also a lack of awareness that a person can make voluntary social insurance contribution when that person is no longer liable to pay Class S PRSI (for example, ceasing self-employment or income from self-employment falling below the €5,000 limit). The Group noted that sources of information are readily available and in particular the Citizens Information Board provides extensive public service information through its website [selfemployedsupports.ie](http://selfemployedsupports.ie). Nevertheless, information deficits and misconceptions would appear to persist.

**Recommendation 7:** The Department of Social Protection should conduct information campaigns aimed at the self-employed, through a range of communication channels and with the assistance of other agencies that interact with

the self-employed, such as the Revenue Commissioners and the Department of Agriculture, so as to address information deficits and in particular referencing

- Entitlements to Jobseeker's Allowance and
- The importance of making voluntary contributions so as to maintain their social insurance record and protect future pension entitlements.

### **5.9. Disguised self-employed**

Recent trends in the labour market towards greater flexibility and casualisation have resulted in some workers being classified as self-employed, whereas their employment characteristics would properly determine them as employees. In some cases persons have falsely declared themselves as self-employed so as to avail of different tax treatment. In other cases, employees have been falsely declared as self-employed so as to circumvent employer obligations under labour legislation. These disguised self-employed may face difficulties in accessing income supports because they were inappropriately categorised as self-employed despite their characteristics being appropriate to employee status. Of particular concern in this regard would be precarious workers, particularly in the construction sector, who as a result of not making the requisite social insurance contributions, do not have access to social welfare benefits.

**Recommendation 8:** The increased casualisation of certain types of employment has resulted in the tendency to wrongly classify some employees as self-employed, which has resulted in new social risks. To mitigate these risks, the Department of Social Protection and the Revenue Commissioners should ensure greater compliance with the *Code of Practice for Determining Employment or Self-Employment Status of Individuals*. To this end, there should be regular reporting on the levels of reclassification.

### **5.10. Entrepreneurship**

The Group finally considered the role that social insurance for the self-employed might play in encouraging entrepreneurship. Stimulating people to start up their own businesses was considered to be a key strategy in aiding economic recovery. Encouraging entrepreneurship and hence self-employment (which in turn could generate additional employment) may also be one approach to addressing the

current high levels of unemployment. The Group recognised the importance of fostering an environment that supports entrepreneurial activities that will in turn assist small businesses to expand, create jobs and contribute to national economic growth. However, the Group concluded that it is not the role of the social insurance system to promote entrepreneurial activities.

The Group also felt that the social insurance system should not discourage entrepreneurs, particularly in the current economic climate where there may be heightened risks associated with entrepreneurship. Data from a recent survey strongly suggests that existing provisions for the self-employed are not inhibiting entrepreneurship. The Global Entrepreneurship Monitor (GEM) analysis for 2011 shows that Ireland continues to exhibit a high rate of early stage entrepreneurship among the adult population (7.2%) compared to its European counterparts (Ireland ranked 4th out of 12 of EU 15 countries surveyed).<sup>48</sup> For many start-up businesses, the principle concern is access to capital and financing. In this context it might be noted that for those on a range of social welfare payments there is a Back to Work Enterprise Allowance, which can facilitate a person to become self-employed and which allows the recipient to retain a portion of their social welfare payment for a period of two years.

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<sup>48</sup> *Action Plan for Jobs 2012*, p. 39.

## **Appendix 1 Terms of Reference**

1. The Government agreed the following terms of reference for the Advisory Group:

a. To constitute a forum to which the Minister for Social Protection may refer specific issues around the income supports and tax systems so that they provide good incentives to take up work and to contribute to the reduction of poverty and child poverty in particular. In particular, the Advisory Group will examine the following specific issues and make recommendations on:

- i. Child and family income supports (in particular child benefit, increases for qualified children and the family income supplement);
- ii. Working age income supports (including unemployment payments and similar payments made by other agencies, one parent family payment, one parent family tax credit, back to work tax credit, increases for adult dependants as well as secondary benefits such as medical cards and rent and mortgage supplementary payments);
- iii. The appropriate unit of assessment in both the tax and social welfare codes;
- iv. How to address identified anomalies in the interaction of tax and social welfare codes.

b. To examine and report on issues involved in providing social insurance cover for self-employed persons in order to establish whether or not such cover is technically feasible and financially sustainable;

c. To examine and report upon how to improve interaction between the tax, social welfare systems and other supports so as to improve the operation of both in a cost-effective way and in the delivery of positive social and economic outcomes;

d. To examine and report upon any other issue that may be referred to the Group by the Minister for Social Protection following consultation with the Ministers of Finance and Public Expenditure and Reform and the agreement of the Minister for Finance on taxation matters.

It is intended that the Advisory Group should consider any proposals for change to existing arrangements in a cost-neutral or cost-reducing context.



2. Following Budget 2012, the Minister for Social Protection, Joan Burton T.D. refers the following additional terms of reference to the Advisory Group:

a. To examine and report on the policy objectives underpinning the Budget 2012 proposals regarding:

Changes in the eligibility criteria and rates of payment for Disability Allowance (DA);

The increase in the age threshold for payment of Domiciliary Care Allowance (DCA);

b. To assess the effectiveness of the Budget 2012 proposals in delivering on the policy objectives taking account, inter alia, the ease of implementation and the timing/phasing of implementation; and

c. To consider alternative ways as to how the policy objectives might be achieved.

**Membership of the Advisory Group on Tax and Social Welfare as announced on 25th June 2011**

Ita Mangan, Chairman of the Advisory Group

John Bohan, Department of Social Protection

Niall Cody, Office of the Revenue Commissioners

Micheál Collins, Department of Economics, Trinity College Dublin\*

John Conlon, Department of Public Expenditure and Reform

Catherine Hazlett, Department of Children and Youth Affairs

Paul Kealy, Department of Jobs, Enterprise and Innovation

Geralyn McGarry, Citizens Information Board

Aebhric McGibney, Dublin Chamber of Commerce

Pat Mahon, Pricewaterhouse Coopers (PwC)

Derek Moran, Department of Finance

Mary P. Murphy, Department of Sociology, National University of Ireland, Maynooth

Brian Nolan, School of Applied Social Science in UCD

Marie Sherlock, SIPTU

John Sweeney, National Economic and Social Council

\*Since moved to a position with the Nevin Economic Research Institute

Gerry Harrahill replaced Niall Cody in June 2012 as the Revenue Commissioners representative

Brenda McVeigh replaced Derek Moran in May 2012 as the Department of Finance representative

**Secretariat to the Advisory Group on Tax and Social Welfare**

Joan Gordon, Department of Social Protection, Secretary to the Advisory Group

Ciaran Diamond, Department of Social Protection

Denise Tully, Department of Finance

Joe Twomey, Office of the Revenue Commissioners

Kasey Treadwell Shine replaced Joan Gordon as Secretary to the Advisory Group in April 2012

## **Appendix 2 Consultation Process**

As part of the consultation process for the Advisory Group on Tax and Social Welfare, the Group invited organisations, stakeholders or individuals who had registered an interest in doing so to make written submission on the issue of the extension of social insurance to the self-employed. The main issues raised in the submissions are outlined below under various broad headings along with some of the key recommendations made.

### **Extension of Social Insurance Coverage to Self-Employed**

A large majority of the submissions on this topic were in favour of extending social insurance protection to self-employed persons, for which self-employed persons would have to make a greater PRSI contribution than at present. The submissions outlined a number of issues with the current system whereby self-employed persons make Class S contributions but receive only limited cover. These issues included; the inequity of the current social insurance system in relation to self-employed persons, the difficulties for self-employed persons in accessing means-tested payments and long delays in having their applications processed and the significant deterrent which currently exists to setting up a business. The submissions also determined a number of positive outcomes associated with extension of social insurance cover for the self-employed to include unemployment benefits and illness and disability benefit, including:

- Incentivising entrepreneurship and self-employment.
- Job creation and stimulating economic growth.
- Fairer compensation for self-employed based on contribution they make to the economy.
- Greater opportunities for formerly self-employed to return to work, training and/or education.

### **Mandatory or Voluntary Contribution**

If self-employed persons were to pay PRSI at a higher rate in return for social insurance cover in the case of unemployment, illness and disability, an immediate question would arise as to whether contributing at this higher rate should be mandatory or voluntary. A majority of the submissions considered this issue and

many were in favour of a voluntary approach, a number of issues were identified with a mandatory contribution including:

- The inequity of not giving the self-employed the option to contribute.
- Introducing a mandatory contribution could be viewed as a revenue grab opportunity.
- A mandatory higher contribution could be difficult for some self-employed whose businesses are at an early stage or on a smaller scale.
- In other EU Countries it is the norm for self-employed persons to make voluntary rather than mandatory contributions.

Despite these issues a significant number of the submissions also suggested that a full exploration of the feasibility of either a mandatory or voluntary contribution should take place before any decision is made. Of the 30 submissions received only two expressly recommended the introduction of a mandatory higher contribution for the self-employed.

In general the submissions outlined a number of concerns which exist for self-employed people in the context of the economic downturn and which are not necessarily associated with the extension of social insurance cover. A principle concern mentioned in a number of the submissions was the failure to disseminate accurate information on the rights of self-employed people which has led to many formerly self-employed people believing they have no entitlements. A final concern was in relation to the increasingly atypical types of employment and self-employment and there was a call in the submissions for these terms to be defined more clearly.

## **List of Submissions**

- Barker, Leigh
- Carswell, Caroline
- Citizen's Information Board
- Cúram
- Derham, Niall
- Donnelly, Stephen T.D.
- Elmes, Ursula
- Grace, Gordon
- Hanly, Mark
- Hearne, Una
- Irish Congress of Trade Unions
- Irish Hotels Federation
- Irish National Organisation of the Unemployed
- Irish Small and Medium Enterprises Association
- Kelly, John
- King, Angela
- Kitt, Serena
- Knocklyon Network
- McCabe, Vinnie
- McMullen, Jackie
- O' Dowd, Enid
- O' Floinn, Terry
- O' Loughlin, Joseph
- O' Reilly, Geraldine
- Stone, Mary
- St. Vincent De Paul
- Small Firms Association
- Venegas, Trisha
- Wallace, Martin
- Wrafter, Peter

## **Appendix 3 Extract from Code of Practice for Determining Employment or Self-Employment Status of Individuals**

### **Criteria on whether an individual is an employee**

While all of the following factors may not apply, an individual would normally be an employee if he or she:

- Is under the control of another person who directs as to how, when and where the work is to be carried out.
- Supplies labour only.
- Receives a fixed hourly/weekly/Monthly wage.
- Cannot subcontract the work. If the work can be subcontracted and paid on by the person subcontracting the work, the employer/employee relationship may simply be transferred on.
- Does not supply materials for the job.
- Does not provide equipment other than the small tools of the trade. The provision of tools or equipment might not have a significant bearing on coming to a conclusion that employment status may be appropriate having regard to all the circumstances of a particular case.
- Is not exposed to personal financial risk in carrying out the work.
- Does not assume any responsibility for investment and management in the business.
- Does not have the opportunity to profit from sound management in the scheduling of engagements or in the performance of tasks arising from the engagements.
- Works set hours or a given number of hours per week or month.
- Works for one person or for one business.
- Receives expense payments to cover subsistence and/or travel expenses.
- Is entitled to extra pay or time off for overtime.

Additional factors to be considered:

- An individual could have considerable freedom and independence in carrying out work and still remain an employee.
- An employee with specialist knowledge may not be directed as to how the work is carried out.
- An individual who is paid by commission, by share, or by piecework, or in some other atypical fashion may still be regarded as an employee.
- Some employees work for more than one employer at the same time. Some employees do not work on the employer's premises.

- There are special PRSI rules for the employment of family members.
- Statements in contracts considered by the Supreme Court in the 'Denny' case, such as *"You are deemed to be an independent contractor"*, *"It shall be your duty to pay and discharge such taxes and charges as may be payable out of such fees to the Revenue Commissioners or otherwise"*, *"It is agreed that the provisions of the Unfair dismissals Act 1977 shall not apply etc"*, *"You will not be an employee of this company"*, *"You will be responsible for your own tax affairs"* are not contractual terms and have little or no contractual validity. While they may express an opinion of the contracting parties, they are of minimal value in coming to a conclusion as to the work status of the person engaged.

### **Criteria on whether an individual is self-employed**

While all of the following factors may not apply to the job, an individual would normally be self-employed if he or she:

- Owns his or her own business.
- Is exposed to financial risk by having to bear the cost of making good faulty or substandard work carried out under the contract.
- Assumes responsibility for investment and management in the enterprise.
- Has the opportunity to profit from sound management in the scheduling and performance of engagements and tasks.
- Has control over what is done, how it is done, when and where it is done and whether he or she does it personally.
- Is free to hire other people, on his or her terms, to do the work which has been agreed to be undertaken.
- Can provide the same services to more than one person or business at the same time.
- Provides the materials for the job.
- Provides equipment and machinery necessary for the job, other than the small tools of the trade or equipment which in an overall context would not be an indicator of a person in business on their own account.
- Has a fixed place of business where materials, equipment etc. can be stored.
- Costs and agrees a price for the job.
- Provides his or her own insurance cover e.g. public liability cover, etc.
- Controls the hours of work in fulfilling the job obligations.

Additional factors to be considered: Generally an individual should satisfy the self-employed guidelines above, otherwise he or she will normally be an employee.

- The fact that an individual has registered for self-assessment or VAT under the principles of self-assessment does not automatically mean that he or she is self-employed.

- An office holder, such as a company director, will be taxed under the PAYE system. However, the terms and conditions may have to be examined by the Scope Section of Department of Social Protection to decide on the appropriate PRSI Class.
- It should be noted that a person who is a self-employed contractor in one job is not necessarily self-employed in the next job. It is also possible to be employed and self-employed at the same time in different jobs.
- In the construction sector, for health and safety reasons, all individuals are under the direction of the site foreman/overseer. The self-employed individual controls the method to be employed in carrying out the work.



## **Appendix 4 Means test for self-employed – Jobseeker’s Allowance**

The general requirements in order to receive Jobseeker’s Allowance are that a claimant must be:

- Over 18 and under 66
- Unemployed
- Capable of work, available for work and genuinely seeking work
- Habitually resident in the State
- Satisfy a means test

If a person is self-employed they may be entitled to Jobseeker’s Allowance depending on the earnings from their business. They do not need to close their business or stop working as self-employed to get Jobseeker’s Allowance; they will be entitled to a payment if their income is below a certain level. The number of days a person is engaged in self-employment is not relevant. It is possible to qualify for Jobseeker’s Allowance even if engaged in self-employment every day. However, a claimant must be capable of, available for, and genuinely seeking work to qualify for Jobseeker’s Allowance and must be able to show evidence of this.

The earnings from the claimant’s business are assessed in the means test for Jobseeker’s Allowance. The assessment must reflect the income they may reasonably be expected to get from their business over the next 12 months. Income for the last 12 months is taken as a guide but allowing for any factors which it is known will vary. All current earnings from self-employment are taken into account and there are no disregards. This means that unlike regular employment, every euro that a person earns from self-employment is deducted from their Jobseeker’s Allowance payment. Earnings are assessed as gross income less work related expenses over 12 months. Expected annual earnings from self-employment are divided by 52 to find weekly means from self-employment. Any ‘drawings’ taken from the business is not an allowable expense. If ‘drawings’ from the business are greater than the level of income calculated, the ‘drawings’ are assessed as cash income. To prove the level of income from their business a claimant must provide receipts and payments or audited accounts to the Department.

An increase in payment is also available for an adult dependant and any child dependants a claimant may have. If they have been getting a Jobseeker's Allowance payment for at least 156 days and their child is in full-time education, an Increase for a Qualified Child (IQC) is paid up to 22 years of age. A person may get an Increase for a Qualified Adult (IQA) with their payment for an adult dependant (this is usually their spouse, civil partner or cohabitant). The person does not have to be totally dependent on the claimant but any income they have will be assessed in a means test. If a spouse, civil partner or cohabitant is employed, only a certain amount of their income from work is taken into account when calculating a Jobseeker's Allowance payment. That is, their average gross weekly assessable earnings minus PRSI, pension contributions and union subscriptions, for each day worked (up to a maximum of 3 days) subtract €20 and assessable means for Jobseeker's Allowance purposes are 60% of the remainder. If a spouse, civil partner or cohabitant is self-employed all their income from self-employment is counted in the means test. If a spouse, civil partner or cohabitant has a social welfare payment in their own right it is not allowable to claim an IQA for them, in addition only 50% of combined means are taken into account in the means test for Jobseeker's Allowance. If a person is claiming Jobseeker's Allowance and their spouse or partner is getting; Illness Benefit, Disablement Pension, Injury Benefit, Invalidity Pension, State Pension, Jobseeker's Benefit, Jobseeker's Allowance, Pre-Retirement Allowance or Farm Assist the total amount paid to both of them cannot be more than would be payable if only one was claiming and the other was an adult dependant. Total household means are then deducted from the maximum payment (this is the personal rate including any increases for adult and child dependants) to find the actual amount of Jobseeker's Allowance a person is entitled to.

If a claimant owns property that they are not personally using or if they have investments or any other form of capital, the value is assessed, using a standard formula: The first €20,000 of the capital is disregarded, the next €10,000 is assessed at €1 per €1,000, the next €10,000 is assessed at €2 per €1,000, and any excess of €40,000 is assessed at €4 per €1,000.

## Appendix 5 International Comparison

Country	Illness/Invalidity	Occupational Injury/Disease	Unemployment
Austria	Invalidity: compulsory insurance scheme for family members working in an enterprise of a self-employed.	Compulsory scheme certain self-employed covered Contribution Rate: 1.4%	Voluntary scheme  Contribution Rate: 6% 3% - employer 3% employee
Belgium	Special compulsory scheme for the self-employed – lump sum benefits	No Cover	No Cover
Denmark	Voluntary scheme  Funded by contributions to labour market fund – 8% of salary/gross earnings	Voluntary scheme  Contributions varies with risk	Voluntary scheme  Contribution rate: Minimum €41 p/m
Finland	Illness: Compulsory scheme Contribution rate: 0.92% of taxable income  Disability: Compulsory scheme Contribution rate: 21.6%- 22.9% (includes contribution for old age pension)	Voluntary scheme  Insurance premiums vary according to risk	Voluntary scheme  Contribution rate Employers 0.8% - 3.2% of payroll Employee 0.6%
Germany	Invalidity – compulsory scheme for certain self-employed Contribution rate: 19.9% Employer 9.95% Employee 9.95% (includes contribution for old age pension)	Compulsory scheme for certain self-employed  Voluntary scheme for other self-employed	Voluntary scheme for S/E working at least 15 hours a week  Contribution rate: 6%
Luxembourg	Compulsory scheme  Contribution rate: 0.5%	Compulsory scheme	Compulsory scheme  Financed by solidarity taxes

Netherlands	No cover	No cover	No cover
Portugal	Compulsory scheme	Accidents at work: Compulsory private insurance Premiums vary according to risk.  Occupational diseases Compulsory scheme	No cover
Spain	Invalidity: special scheme for self-employed	Voluntary scheme	Out of work benefit for the self-employed
Sweden	Illness and Invalidity: compulsory scheme  Contribution rate: 4.48% - 5.11% (varies according to the length of waiting period chosen)	Compulsory scheme  Contribution rate 0.68% for self-employed	Voluntary scheme  Contribution rate 0.37% for self-employed
United Kingdom	Illness and Invalidity: compulsory scheme  Self-employed earning below €5873 are exempt	No cover	Compulsory for some self-employed  Contributions vary with level of earnings.
France	Illness and Invalidity: compulsory scheme  Contribution rate: 13.55% Employer 12.8% Employee 0.75%  Certain self-employed excluded	Voluntary scheme  Certain self-employed excepted	No cover
Greece	Illness – no cover  Invalidity – special schemes for different groups of self employed	No cover	No cover
Italy	Illness – no cover  Invalidity – special	Compulsory scheme for certain categories of self-employed	No cover

	scheme	(lawyers and other liberal professions excepted)	
Ireland	No cover	No cover	No cover
Bulgaria	Illness – voluntary scheme Contribution rate: 3.5% of contributory income (€215-€281 p/m)  Invalidity – compulsory scheme Contribution rate: 12.8% of contributory income (€215-€281 p/m) (includes contribution for old age pension)	No cover	No cover
Cyprus	Compulsory scheme Contribution rate: 12.6% of notional income	Compulsory scheme	No cover
Czech Rep.	Illness – voluntary scheme Contribution rate: 2.3% of assessment base (minimum €165 p/m)  Invalidity – compulsory scheme Contribution rate: 28% of declared earnings (50% of the difference between income and expenses – Minimum assessment base €255 p/m) (includes contribution for old age pension)	No cover	Compulsory scheme  Contribution rate 1.2% of declared earnings (50% of the difference between income and expenses – Minimum assessment base €255 p/m)
Estonia	Illness and Invalidity – compulsory schemes Contribution rate: Social tax 33% of income, 13% of which is earmarked for healthcare and	No specific insurance against employment injuries and occupational diseases. These risks are covered under health care, sickness and	No cover

	<p>sickness insurance.</p> <p>Self-employed are obliged to pay social tax not less than the amount calculated from the monthly rate of the minimum wage (€278.02 per month).</p>	invalidity.	
Hungary	<p>Illness and Invalidity: compulsory schemes</p> <p>Contribution rate: Illness: 2.5% of gross earnings Employee 2% Employer 0.5%</p> <p>Invalidity: Employee 10% of gross earnings Employer 24% (includes contribution for old age pension)</p>	<p>Compulsory scheme</p> <p>Contribution rate: Flat rate of €19 p/m</p>	<p>Compulsory scheme</p> <p>Contribution rate: 2.5% of gross earnings</p>
Latvia	<p>Illness and Invalidity – compulsory schemes</p> <p>Self-employed persons: 31.52% of declared income Minimum €3,385 per year. (includes contribution for old age pension)</p>	No cover	No cover
Lithuania	<p>Illness – voluntary scheme Contribution rate : 3.4% of half income</p> <p>Invalidity – compulsory scheme Contribution rate 26.3% (includes contribution for old age pension)</p>	<p>Voluntary insurance provided through private insurance companies</p>	No cover

Malta	<p>Illness and Invalidity - Compulsory schemes</p> <p>Contribution rate: Overall contribution 15% of annual net income</p>	<p>Compulsory scheme</p> <p>Contribution rate: Included in overall contribution</p>	No cover
Poland	<p>Illness – voluntary scheme</p> <p>Contribution rate: 2.45% gross earnings</p> <p>Invalidity – compulsory scheme</p> <p>Contribution rate: 6% Employee 1.5% Employer 4.5%</p>	<p>Compulsory scheme</p> <p>Contribution rate: 0.67% - 3.33% of gross wages</p>	No cover
Romania	<p>Illness – compulsory scheme</p> <p>Contribution rate: 0.85%</p> <p>Invalidity: compulsory scheme if gross income exceeds €1,908 Employee 10.5% Employer Rates vary</p>	<p>Voluntary scheme</p>	<p>Voluntary scheme</p> <p>Contribution rates: 1% of gross earnings</p>
Slovakia	<p>Illness and Invalidity – compulsory schemes, though not compulsory for self-employed with income below €3,948.</p> <p>Contribution rate: Illness - 4.4% of assessment base Invalidity – 6% of assessment base (Assessment base: 50% of average monthly taxable income of the previous year).</p>	No cover	No cover

Slovenia	Illness and Invalidity: compulsory schemes  Contribution rate: Illness - 0.2% of insurance base Invalidity - 24.35% of insurance base (includes contribution for old age pension)	Compulsory scheme  Contribution rate: 0.53% of gross wage	Compulsory scheme  Contribution rate: 0.2% of gross wages Employee 0.14% Employer 0.06%
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Source: Missoc.