



An Roinn Coimirce Sóisialaí
Department of Social Protection

Posted Workers & Portable Document A1 [PDA1] Processing

Belgium - Ireland co-operation under the Eurodetachment Project

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3rd March 2021



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Social Insurance collection in Ireland

- **Pay Related Social Insurance [PRSI] is generally applied to both Employed and Self-Employed workers. In most cases, PRSI arising in employments has both an Employer and an Employee element.**
- **The charging of PRSI is provided for under the Social Welfare Acts and it can form the basis for the payment of social welfare benefits administered by the Department of Social Protection**
- **PRSI is collected in Ireland by the taxation authority, The Revenue Commissioners**
- **PRSI is generally deducted from the employee payroll or from the annual returns of profits that are submitted by the self-employed**
- **In very limited circumstances, PRSI can be collected directly by the Department of Social Protection under special collections arrangements**



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Posted workers and social insurance

- **Social insurance is charged on a single administration basis and under the General Rules prescribed under Article 11 of EU Reg 883/2004, most workers are subject to social insurance in the Member State in which they are working**
- **Specific arrangements are prescribed for certain categories of workers [e.g., Seafarers, Aircrew, Civil Servants and Members of the Armed Services]**
- **Posted workers are an exception to the General Rules**
- **Under Article 12 of EU Reg 883/2004, posted workers [employed or self-employed] can be retained in the social insurance system of their sending country for up to 24 months, so long as the worker is not being sent to replace another posted worker**



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Conditions that must be met by Posted Workers

- EU Reg 883/2004 [the Basic Regulation] must be read in conjunction with EU Regulation 987/2009 [the Implementing Regulation]
- The Implementing Regulation lays down the procedures that must be followed when interpreting the Basic Regulation
- Additional direction concerning the interpretation of the Regulations is provided within Decision A2 of the Administrative Commission for the Coordination of Social Security Systems
- Ireland considers all of the above before deciding if a worker can be categorised as a Posted Worker and issued with a Portable Document A1 [PDA1]



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Requirements for a posting - Reg 987/2009

- The Implementing Regulation [EU Reg 987/2009] requires
- An Employer who wishes to post a worker must carry out activities in the Sending Member State
- The activities must be substantial and not just associated with internal management activities
- A self-employed worker seeking to avail of posting arrangements must habitually pursue self-employed activity in his / her home Member State
- Self-employed workers must retain the ability to resume activities in their home Member State and they must pursue similar self-employed activities during their posting



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Requirements for a posting – Decision A2

- Decision A2 requires / advises the following in a posting
- Workers must be attached to the Social Insurance System of their Sending Member State for at least 1 month prior to the start date of the posting
- The posting must be of temporary nature i.e., duration up to 24 months
- Evidence of a direct relationship between employer and employee during the posting period [considerations include employment contracts, confirmation of right of dismissal and direction, confirmation of employee remaining on payroll, etc.]



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Requirements for a posting - Decision A2

- Continued - Decision A2 requires / advises the following
- A worker cannot be posted if they recruited in one Member State by an employer in a second Member State to be posted to a third Member State
- An interruption of two months must lapse for new posting involving the same employee, the same employer and a return to same Member State - during which time the worker must return to work in the sending Member State
- Brief interruptions for training, holiday or illness do not interrupt the Portable Document A1



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Requirements for a posting - Decision A2

- Continued - Decision A2 requires / advises the following
- An interruption of more than 2 months breaks a posting
- Any changes in the circumstances of a posting must be notified to the Competent Authority of the sending Member State
- If work is proposed in a new Member State, then this becomes a new posting scenario



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Other provisions within the Regulations

- **Article 16 of EU Regulation 883/2004 permits the Competent Authorities of the sending and receiving Member States, by common agreement, to extend the duration of a previously agreed posting**
- **Requests for extensions must come in the first instance from the Employer and be supported by a convincing business case**
- **Both the Basic and the Implementing Regulations require a duty of mutual cooperation between institutions in order to ensure the correct application of the Regulations**



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Postings and verifications undertaken by Ireland

- **When validating posting requests, Ireland conducts some, or all, of the following checks [depending on the circumstances of the individual application]**

E.g., Ireland can examine -
- **Copies of contracts of employment, statements or evidences that confirm the short term nature of work abroad, employee work rotas / time sheets, company registration detail and / or evidence of self-employed registration**
- **Using PRSI ‘look-up’ tools, Ireland can access real-time payroll details to evidence employment / self-employment and it can use other payroll metrics [e.g., confirming the number of employees] to evidence substantial activities**



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Nature of A1 Portable Documents

- **A1 Portable Documents are issued under coordinating EU Regulations and they confirm the Member State to which the holder is attached for social insurance purposes**
- **Once issued, A1 Portable Documents are legally binding on the Courts and Institutions of the Member State where they are presented, unless withdrawn by their Issuing Member State**
- **There is a limited exception on ‘binding nature’ in cases where fraud is alleged [*Altun C 359-16*]**
- ***Clear evidence of fraud must be provided for review to the Competent Authorities of the Issuing Member State. The exception only applies if the Competent Authority of the Host Member State seeks such a review and the Issuing Member State fails to conduct a review of the case(s), or fails to revert to the Host Member State with an outcome within a reasonable time period***



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