



An Roinn Coimirce Sóisialaí
Department of Social Protection

**Irish Farmers Association (IFA)
Information Webinar**

Scope Presentation on Partnership Decisions

- *Brenda Moran, Scope Section*
- *16th November 2022*
- scope@welfare.ie

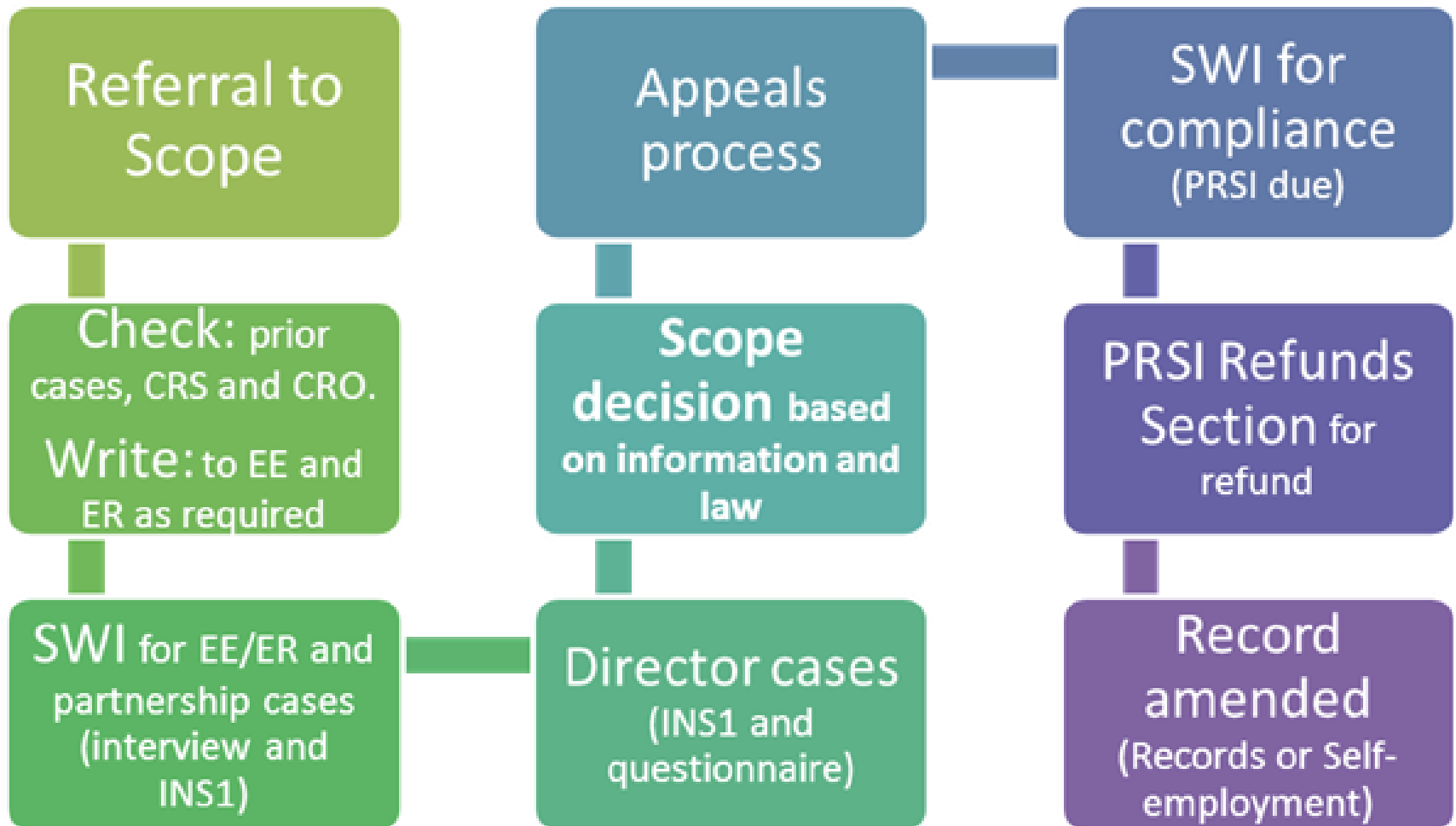
Main Functions of Scope Section

- To give information on insurability of employment/self-employment.
- Make decisions in accordance with common and statute law based on all the available evidence and also on legal principles handed down in various court judgments.

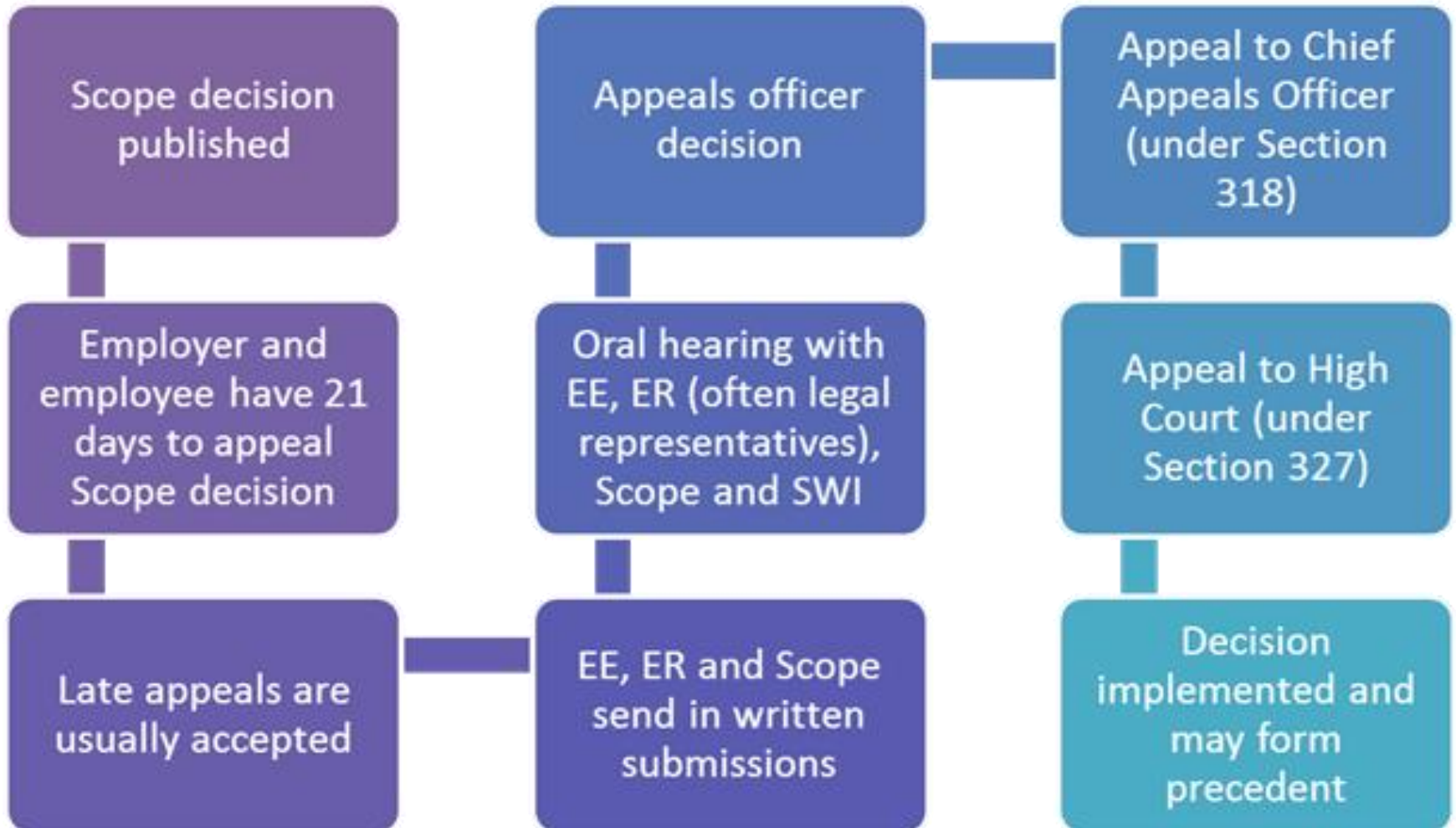
Referrals to Scope



Scope process



Appeals process



Role of Social Welfare Inspectors (SWI)



Scope and Inspectors

- About 15% of Scope cases involve SWIs at the investigation stage
- These include partnership cases and disputes between employers and employees over status and some family employments



**An Roinn Gnóthaí Fostaíochta
agus Coimirce Sóisialaí**
Department of Employment Affairs
and Social Protection

Types of Employment

Types of Employment

- Partnerships (mostly Farm)
- Company Directors (PRSI class A-S)
- Class A –D (Public Service)
- Family Employments
- Subsidiary Employments
- Employee v Self-Employed

Partnership – mostly farms, mostly wives



A partnership is defined under the Partnership Act, 1890 as:

the relationship subsisting between persons carrying on a business in common with a view to profit, where persons can include a company and business includes every trade or occupation. Each partner contributes in one or more ways with money, property, labour, or skill and shares in the profits and risks of loss in accordance with the partnership agreement or understanding

- Requests to have a decision that they are/were working on the family farm (or other business) in partnership with their spouse
- Referred to a SWI who will interview both parties to see if a partnership exists or existed
- If partnership does or did exist referred to Self-Employment, Waterford who will split the income between spouses so they both have Class S contributions if the income is sufficient

Evidence of Partnership

- a written Partnership Agreement (not legal requirement)
- business stationery reflects the existence of a partnership
- joint business bank account
- Each partner writes cheques
- It is apparent to those doing business with the partnership that one exists
- Business accounts/activities are in joint names (e.g. Mart, Creamery, Cash & Carry, Brewery, Herd Number etc.)
- each partner made a significant contribution to the running of the business
- business is jointly owned by the partnership,
- The partnership is recognised by Revenue for all relevant taxes and the tax affairs of each partner should reflect this
- Each partner contributes capital or services to the business
- each partner has the right to participate in management decisions and other responsibilities (no partner should be an employee of the other)
- In the absence of a written partnership agreement the shares of profits should be equally divided between the partners

After the Scope Decision

- Once it is decided that a partnership exists, Scope section refer the case to Client Eligibility Services(Self-Employment Section) in Waterford to split the income declared by the person who was charged PRSI (main person)
- The main person's income is split equally between the partners and a new PRSI charge is raised for each person. Credit is given for PRSI already paid.
- The splitting of income can still lead to an extra PRSI charge.

PRSI charges that may occur

1. The minimum PRSI may be due for each of the partners but the original payment doesn't cover that amount.

For example, original income is €15,000 – PRSI charge is €600 (4%). After we split the income becomes €7,500 each and the minimum charge of €500 each arises. This leaves an extra liability of €400

2. In the years 1988/89 to 2000 there was a PRSI ceiling so a person only paid to the ceiling. If the actual income is above the ceiling an extra PRSI charge is raised. For example 1990/91 income of £30,000. The PRSI ceiling was £17,300 so PRSI of £865 was paid. After the split income of £15,000 each applies. The new PRSI charge is £750 each. Extra liability of £635 applies

Advantages of a Partnership Decision

1. both parties **may** be entitled to a pension. This is not always the case
2. There may be no extra PRSI charge depending on the income

Disadvantages

- 1. The main person may lose PRSI contributions
- 2. There may be a significant bill depending on the income
- Once any potential liability is decided, a bill will issue as required. Once this bill is paid, the contribution record is updated and Pensions will be advised as necessary.
- If a bill is not required, the contributions record will be updated and Pensions are advised accordingly.



Always seek financial advice before requesting a partnership decision as there may be unexpected consequences. Once the Department makes a decision, that decision will stand.

Scope Partnership Decisions 2018 - 2021

Scope Decisions 2018 - 2021				
Type of Decision	2018	2019	2020	2021
Partnership	146	114	107	87



Thanks You
Questions & Answers?