

Farming

Spouse trading in partnership

Part 23 Chapter 1

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Executive Summary

This manual explains the approach to be taken in districts when a farmer retrospectively claims to have been trading in partnership with a spouse over a number of years, notwithstanding the returns have been prepared on the basis that the farming activity was carried on by one spouse.

1 Introduction

Enquiries have been received from farmer representatives seeking to have some farmers treated as having been trading in partnership with a spouse over a number of years, although accounts and returns of income have been prepared on the basis that the farming activity was carried on by one spouse

Such claims are usually made so as to establish the spouse as an insurable self-employed person for social welfare purposes, thereby qualifying for relevant benefits principally the old age contributory pension. Typically the farmer making the claim may not be in a position to make the ten years contributions required to qualify for a contributory, whereas the farmer's spouse may be in a position to do so.

2 Approach to be adopted in Districts

2.1 Returns now being submitted

The question of whether or not farming is being carried on in partnership depends on the facts of the particular case. Under self assessment, a return received on the basis that a partnership trade is being carried on should be processed in the usual way.

2.2 Earlier years

Where a claim is received to have assessments already made on a sole trader revised to an assessment on the sole trader and spouse trading as a partnership, the farmer should be advised that any review of the insurability of both spouses will be undertaken by the Scope section of Department of Social Protection. The assessment for the earlier years should not be amended.

Scope Section is based at:

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