



## Welcome

### Hello and welcome to the August edition of the Employer Bulletin

This edition has some important information about Student Loans, Trivial Benefits, Disguised Remuneration and an update regarding the forthcoming Off-payroll working rules from April 2020.

There's a useful article on page 6 regarding Seasonal Workers which I would encourage you to read if you recruit seasonal and temporary workers during the summer months.

As always we'll continue to use the Employer Bulletin to tell you about new products and changes which may affect you and to give you access to further information if you need it. With that in mind I'd also like to encourage you to sign up to receive an email alert from us each time a new edition of the Employer Bulletin is published. The email alert system is no longer tied to a PAYE reference number, meaning that it's no longer just employers who can sign up and there are no restrictions on the number of individuals per company who can receive the alert.

So make sure you don't miss any future updates by signing up to receive one of our [email alerts](#). You can also follow us on twitter [@HMRCBusiness](#) and [@hmrcgov.uk](#)

Another useful source of information is the [Agent Update](#), the next edition of which will be available soon and provides guidance for tax agents and advisors.

And finally, our aim is to be able to deliver clear, consistent and timely information which is appropriate for employers and helps you to meet your payroll obligations to HMRC. So, if you have any comments or suggestions about any of the content of the Employer Bulletin or would like to see a specific topic covered, please drop me a line at [scott.milne@hmrc.gov.uk](mailto:scott.milne@hmrc.gov.uk) Your feedback is always most welcome.

*Scott*

**Scott Milne**  
Editor

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# PAYE RTI penalties – continuation of the risk-based approach to charging penalties

Following a review, HMRC has decided to continue the risk-based approach to PAYE late filing and late payment penalties throughout the 2019/20 tax year.

This means that late filing and late payment penalties will be considered on a risk-assessed basis rather than being issued automatically. Penalties for 2019/20 will be issued from September 2019.

## Late Filing Penalties

HMRC will not charge penalties automatically for 2019/20 provided a Full Payment Submission (FPS) is filed within 3 days of the payment date.

This is not an extension to the current statutory position on reporting PAYE payments which remains unchanged. You must still file your submissions on or before each payment date unless any of the circumstances set out in the [‘Sending an FPS after payday’](#) guidance arise.

Where there is a pattern of persistent late-filing within three days of the statutory filing date, employers will be reviewed and may be charged a filing penalty as part of our risk-based approach.

## Late Payment Penalties

HMRC will continue to issue late payment penalties using a risk-based approach for 2019/20. The approach is based on areas of greatest risk and non-compliant behaviour. Guidance on how HMRC calculates late payment penalties and how you can appeal them can be found on [GOV.UK](#)

The date for making PAYE payments to HMRC electronically is unchanged. This is the 22nd of the month (or quarter if you are eligible to pay quarterly) following the tax month or period to which they relate. If you pay by cheque or other non-electronic methods you must pay by the 19th of the following month or quarter to which the payment relates.

Guidance on how to pay is available on [GOV.UK](#)

Late payment may mean that HMRC charges you interest on the amount outstanding, which will accrue until the total amount is paid.

## Reporting payroll information accurately and on time

Accurate and timely reporting of payroll is really important. This is because it helps to make sure that your employee pays the right amount of tax. The information is also linked to Universal Credit which is designed to increase the financial benefits of work and provide employers with a more flexible workforce.

Where reports are late, or inaccurate information is provided, your employees may be negatively affected, and not paid the correct amount of Universal Credit.

The payment date you report on your Full Payment Submission must be on or before the date you pay your employees, not the payroll run date, or another date from your payroll system. Incorrect recording of this date is one of the most common reasons for the issue of a late filing penalty.

If you are unable to report payments on time, and you have a reasonable excuse, you should use a late reporting reason code. You must include the code for every payment on the FPS where the circumstances apply. There’s [guidance](#) available on GOV.UK

HMRC will send you an electronic receipt to confirm a submission has been received although this doesn’t mean that it’s correct or on time.

## Generic Notification Service (GNS) electronic warning messages

Electronic messages contain important information. Do not ignore them as they are designed to be helpful prompts.

The circumstances when HMRC will send you a message are:

- each month where a Full Payment Submission is later than the payment date, with no valid reason
- on the 11th or 12th of the month where we haven’t received an FPS for the month that just ended on the 5th or an Employment Payment Summary (EPS) stating no employees were paid in that month
- around the 5th of each month where the previous month’s payment has not been paid on time or in full and there is an outstanding charge of over £100.

## How to access GNS Electronic warning messages

You can check for messages in the same way as you do for electronic coding notifications, either by:

- logging into PAYE Online and selecting generic notifications from within the “Notice summary” section
- using the PAYE Desktop Viewer
- using your commercial software – but you might need to check compatibility with your software provider
- accessing the Business Tax Account and using the ‘messages’ link.

# Class 1A liabilities payable on Termination Awards and Sporting Testimonial Payments

**Termination Awards** – The Finance Bill 2017 introduced legislation to bring clarity and fairness to the taxation of termination payments by making it clear that all contractual and non-contractual payments in lieu of notice (PILONs) are taxable earnings. This means that from 6 April 2018, all employees now pay tax and Class 1 NICs on the basic amount of pay they would have received, had they worked their notice in full, even if they are not paid a contractual PILON. The tax and NICs consequences no longer depend on how the employment contract is drafted, or whether termination payments are structured in some other form, such as damages for loss of employment.

From 6 April 2020 onwards the National Insurance Contributions (Termination Awards and Sporting Testimonials) Bill 2019 is introducing a Class 1A NICs liability on non-contractual “cash” (or cash equivalent) taxable termination payments over a £30,000 threshold, which have **not** already incurred a Class 1 NICs liability as earnings. This will bring closer alignment between income tax and NICs treatment of termination payments.

This new Class 1A liability will be chargeable on the employer and will be payable at the same annual Class 1A percentage rate (currently 13.8%) that applies to existing Class 1A liabilities on Benefits in Kind (BIKs).

However, unlike Class 1A liabilities arising on BIKs, this new Class 1A liability will **not** be payable and reported via the annual P11D(b) payment/reporting process. Instead, from 6 April 2020 onwards, termination awards that comprise of cash payments will be paid and reported through the PAYE/Real Time Information (RTI) process.

The existing P11D(b) reporting process will be retained for employers reporting Class 1A liabilities arising on BIKs, including the reporting of any BIKs provided to an employee before and after their employment has been terminated (such as the continued provision of a company car).

**Sporting Testimonials** – The Finance Bill 2016 introduced legislation to put beyond doubt the tax treatment of sporting testimonial payments for tax purposes. It provides that from 6 April 2018 onwards, non-contractual and non-customary sporting testimonial payments are now taxable, subject to a lifetime £100,000 threshold.

To bring closer alignment between the income tax and National Insurance treatment of sporting testimonial payments via the National Insurance Contributions (Termination Awards and Sporting Testimonials) Bill 2019, from 6 April 2020 onwards any non-contractual and non-customary sporting testimonial payment over £100,000 paid to a sportsperson by a testimonial committee will incur a Class 1A NICs liability.

That new Class 1A liability will be chargeable on the sporting testimonial committee and it will be the responsibility of the committee controller to report and pay that Class 1A liability to HMRC.

However, unlike Class 1A liabilities arising on BIKs, this new Class 1A liability arising on a sporting testimonial payment will **not** be payable and reported via the annual P11D(b) payment/reporting process. Instead, cash sporting testimonials payments from 6 April 2020 onwards, will be paid and reported through the PAYE/Real Time Information (RTI) process.

If, during the sportsperson’s testimonial year, the sporting testimonial committee provide the sportsperson with the use of a Benefit in Kind (such as a car) then the amount of BIK that is taxable will also incur a Class 1A NICs liability, to be paid and reported by the sporting testimonial committee via the P11D(b) process.

If a sporting testimonial committee pays any amount of a sportsperson's tax liability which arose on a sporting testimonial payment it paid to that sportsperson, then although that amount paid will not incur a Class 1 NICs liability as earnings of the sportsperson, it will incur a Class 1A NICs liability which the sporting testimonial committee must pay and report through the PAYE/RTI process.

If a sportsperson elects to make a donation to charity from their testimonial payment and providing the sporting testimonial committee make that donation via the Payroll Giving provisions then that amount donated will reduce any tax liability (and subsequent Class 1A liability) arising on that testimonial payment. The committee must register a scheme with Payroll Giving to enable this to happen. Payroll Giving provisions can only reduce Class 1A liabilities (they cannot reduce Class 1 NICs liabilities).

### **What employers and sporting testimonial committees need to do to prepare for reporting the new Class 1A NICs liabilities through RTI**

Before 6 April 2020, employers must make sure that their payroll systems have been updated to enable them to pay and report the new Class 1A NICs liability arising on termination payments. Sporting Testimonial Committees will also need to make sure that whatever payroll system they are using, it has the capability to report Class 1A NICs liabilities through real time reporting.

HMRC will shortly be consulting payroll software providers about what additional reporting requirements they need to incorporate into their payroll software products to enable the Class 1A NICs liabilities arising on termination/sporting testimonial payments to be reported through real time. Our intention is to make this new RTI reporting requirement as straightforward as possible for our customers by limiting the amount of additional data items requiring completion to the bare minimum.

We will also be providing comprehensive guidance to employers and sporting testimonial committees to explain upon what type of payments these new Class 1A NICs liabilities will arise and how those Class 1A NICs liabilities are to be paid and reported through PAYE/RTI from 6 April 2020 onwards.

## Off-payroll working rules from April 2020

The government will be reforming the operation of the off-payroll working rules from April 2020. The reforms which were successfully introduced into the public sector in 2017 will be extended to all sectors, making medium and large organisations and agencies responsible for ensuring the contractors they engage pay the right tax and NICs. The consultation on this reform ran from 5 March to 28 May 2019. Draft legislation, an explanatory note and a summary consultation response document were published on 11 July 2019 and can be found [here](#). We would like your views on the draft legislation. Please send comments to [offpayrollworking.intheprivatesector@hmrc.gsi.gov.uk](mailto:offpayrollworking.intheprivatesector@hmrc.gsi.gov.uk) by 5 September 2019.

Businesses can prepare for reform by:

- Identifying and reviewing their current engagements with intermediaries, including personal service companies and agencies that supply labour to them;
- Reviewing their current arrangements for using contingent labour, particularly within the organisation functions that are more likely to engage off-payroll workers;
- Putting in place comprehensive, joined-up processes, for example assessing roles from a procurement, HR, tax and line management perspective, to ensure consistent decisions about the employment status of the people they engage; and
- Reviewing internal systems, such as payroll software, process maps, HR and on-boarding policies to see if they need to make any changes.

HMRC will also provide organisations with education, guidance and support to make sure they have the tools to make the right determination. Online guidance will be available from late summer 2019. A series of education events is planned including webinars, workshops and one to one engagement with the largest employers.

HMRC is currently working with stakeholders to enhance the Check Employment Status for Tax (CEST) tool, including improvements to clarity and accessibility and additional guidance to make it easier for customers to use. There will also be more questions to cover a wider range of working practices. HMRC will continue to stand by the results of the existing service where it has been used in accordance with our guidance.

## Disguised Remuneration

### Loan Charge

If you paid current or former employees with loans through a disguised remuneration tax avoidance scheme, and are in the process of settling with HMRC, please ensure you take the actions we require by the dates specified in our correspondence. If you do this, the November 2017 [settlement terms](#) will remain available to you and the loan charge requirements won't apply. There are further details on employers' responsibilities in relation to the loan charge in the [June Employer Bulletin](#).

If you do not reach settlement by the date in our letter of offer, you must report any outstanding loans, and pay the loan charge. Full guidance can be found [here](#).

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## Basic PAYE Tools – New Release

An update to the Basic PAYE Tools (BPT) is due to be released in September 2019. This update is just for general maintenance and does not alter the functionality of the tool. However, it is important that you update BPT when prompted so that you are always using the latest version. September's version number will start 19.2.

To update or check for updates you should select “Check now” in the update section of settings in the top right hand corner of the tool. It is also recommended that you set the automatic update to “yes”.

New customers can download [BPT](#) from where you will also find comprehensive help on installing this software.

## Toolkits – Revisions published

Accurate record keeping will help to ensure that the correct data can be sent to HMRC by the due dates and reduce delays in payments.

The toolkits are designed to help agents and advisers, but you'll find them useful too.

You may wish to download the recently updated [National Insurance Contributions & Statutory Payments toolkit](#). The toolkit contains comprehensive sections that address areas such as Class 1 NICs and statutory payments.

We have also revised the refreshed [Expenses and benefits from employment toolkit](#) to correct an error on page 4 regarding PAYE Settlement Agreements (PSAs) that previously advised, “a PSA cannot normally be applied retrospectively and a new agreement must be made each year”. These agreements are now ‘enduring’ so do not need to be made each year.

Additionally, the calculation of list price on pages 16-17 of the expenses and benefits from employment toolkit has been updated.

The list price of a car means the inclusive price appropriate for a car of that kind if sold:

- (a) in the United Kingdom,
- (b) singly,
- (c) in a retail sale,
- (d) in the open market, and
- (e) on the day immediately before the date of the car's first registration.

As it is the list price on the day immediately before the date of the car's first registration, it will not include any VED/road fund licence. So, the words ‘road fund licence’ have been removed from the example at section 6 on page 17 of the toolkit.

If you would like to register to receive updates on future changes to the toolkits, please do so [here](#).

## Seasonal Workers

During the summer months, many employers will be taking on seasonal, temporary staff. Like other staff, seasonal and temporary workers must be assessed to see if they qualify for automatic enrolment into a workplace pension.

Assessing these types of employees can take more time because of varying hours and earnings. Employers who know their staff will be working for them for less than three months can use postponement. This postpones the legal duty to assess staff for three months. During this postponement period, employers will not need to put staff into a pension unless they ask to be put into one.

The Pensions Regulator has an [online tool](#) for employers with seasonal and temporary workers.

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## Construction Industry Scheme (CIS)

### CIS Online Refresh

We wanted to let you know that we will be modernising our [CIS online](#) content during the week commencing 19 August 2019. This means the screens will look different but we will not be changing any of the online processes. The CIS online service will be unaffected whilst we make the changes. We are doing this to make it:

- accessible using all modern devices
- clearer and simpler to use by as many people as possible, including those with impaired vision/hearing.

### August Webinars

#### CIS for contractors 28 August 12.00 – 13.00

For further support and advice about working as a contractor please [register online](#) to join a live broadcast of the CIS for contractors webinar. You can learn more about how the scheme works, including CIS Returns, verifications and deductions, and receive answers to your questions during the live broadcast.

#### CIS for subcontractors 29 August 12.00 – 13.00

If you operate as a subcontractor, you can [register online](#) to join a live broadcast of the CIS for subcontractors webinar. You can learn about registering for the scheme, applying for gross payment status, deductions rates and repayment claims. You can also ask questions during the live broadcast.

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## Contractors operating CIS - new VAT reverse charge on building and construction services

Are you a contractor or an employment business operating the Construction Industry Scheme? If so, you need to know that this reverse charge measure comes into effect on 1 October 2019. Further information on the scope of the reverse charge and how it will operate can be found in this [guidance note](#), published in June 2019.

### August webinars

#### VAT reverse charge for construction services 13 August 12.00 – 13.00

If you're in the Construction Industry Scheme, find out if the charge affects you, how it may impact your cash flow and how to prepare for the changes. [Register online here.](#)

### September webinars

#### VAT reverse charge for construction services 16 September 10.00 – 11.00

If you're in the Construction Industry Scheme, find out if the charge affects you, how it may impact your cash flow and how to prepare for the changes. [Register online here.](#)

The key aspects are:

- it will apply to standard and reduced-rated supplies of building and construction services made to VAT registered businesses, who in turn also make onward supplies of those building and construction services;
- the scope of supplies affected is closely aligned to the supplies required to be reported under the CIS, but does not include supplies of staff or workers by employment businesses;

- the legislation introduces the concept of “end users” and “intermediary suppliers”. This covers businesses or groups of associated businesses that do not make supplies of building and construction services to third parties and as such are excluded from the scope of the reverse charge if they receive such supplies. Examples include landlords, tenants and property developers.

The guidance will continue to be updated, as necessary.

## 'Trivial Benefits' for your employees – get them right

Neither employer nor employee will have to pay Income Tax or National Insurance Contributions on the cost of an employer-provided benefit, if the exemption for trivial benefits applies.

Where the exemption applies you will not be required to report these benefits to HMRC either in a PAYE Settlement Agreement (PSA), on a P11D or through the [Payrolling](#) of benefits in kind.

### Myth Busting

Just because the cost of the benefit you are providing to an employee is below £50 it does not automatically mean that the benefit is trivial and qualifies under the trivial benefits in kind exemption.

It's not as simple as that as there are **other conditions** that must be met as well.

**All of the following conditions must apply** before the benefit qualifies under the exemption:

- the cost of the benefit in kind must not be over £50, and
- the benefit in kind must not be cash nor a voucher redeemable for cash, and
- it must not be given as part of salary sacrifice arrangements nor any other contractual obligations, and
- it must not be provided in recognition for work performed.

There is a £300 limit on the cost of all benefits provided in a tax year to directors but only if the employer is a close company.

The main reason the exemption was introduced was to remove the administrative burden for employers in reporting the small amounts involved.

In order to apply the exemption correctly it will help to understand the benefit being provided to your employees and **ask yourself some basic questions**, such as:

- What is the cost of providing the benefit? Is it really below £50 per employee?
- If a benefit is provided to a group of employees, and it is impracticable to work out the exact cost per person, what is the average cost per employee?
- Is there a contractual obligation to provide the benefit? A good test is whether your employee would have legal grounds to object if you didn't provide the benefit
- Are you certain the benefit is not related to how the employee has performed in the course of their duties? This can include providing a benefit where an employee has agreed to work on a specific project or piece of work.

Remember, think carefully about the benefit and the reasons for giving.

Additional information can be found at [GOV.UK](#) website.

**Follow all the rules of the exemption and get the tax right so that you benefit as well as your employees.**

## Welsh rates of Income Tax

Welsh rates of Income Tax came into operation from 6 April 2019.

If you have employees living in Wales, you should have received a P9 at the start of the 2019/20 tax year advising you of a change to their tax code to include a 'C' prefix.

You may have also received an updated P6 notification at the end of June. This could be because the tax code being operated was/is incorrect.

If you have not received an updated notification, please log onto your Business Tax Account to check the correct 'C' code is operating for all employees who live in Wales, and to ensure that you have entered the correct tax code for them on your next FPS submission.

Your payroll software provider may require you to apply an update in order to operate the 'C' code for the 2019/20 tax year. If you are having any problems with your software, please contact your software provider for guidance.

For further information on the Welsh rates of Income Tax visit Gov.uk [Guidance on rates and thresholds for employers 2019 to 2020](#) and Wales.Gov site on [Welsh rates of Income Tax](#).

It is your employees' responsibility to ensure that they provide you with their correct address, and to inform HMRC if they change address. They can do this online at [www.gov.uk/tell-hmrc-change-of-details](http://www.gov.uk/tell-hmrc-change-of-details).

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## Student Loans

As we said in [EB77](#), the [new starter checklist](#) for tax year 2019/20 can be used for all new employees. We encourage you to ask your new employee to complete the starter checklist to allow collection of the correct loan or plan type.

The starter checklist includes:

- a new section for Postgraduate Loans (PGL)
- a section asking your employee if they have both Plan 1 and Plan 2 student loans. If your employee ticks they have both, you should default to Plan 1 and check the SL1 start notice when HMRC sends you this.

An employee can be repaying a Plan 1 or Plan 2 loan at the same time as a PGL.

### Student loan Generic Notification Service messages

You may receive 2 different types of student loan Generic Notification Service (GNS) messages to your PAYE online inbox. These GNS messages will instruct you to:

1. Start taking student loan or Postgraduate Loan (PGL) deductions from a named employee from your next available pay day and report this on the next Full Payment Submission (FPS) you send to HMRC. This is sent to you when HMRC receives an FPS showing zero student loan or PGL deductions for an employee we know is a borrower.
2. Correct the student loan plan for a named employee on the next FPS you send to HMRC. This is sent to you when HMRC receives an FPS for an employee showing the incorrect plan type.

If you don't action either of the above GNS messages on the next FPS you send to HMRC for the named employees then you will receive a second GNS message. If you don't act on the second message, we may contact you by telephone.

More information on student loans for employers can be found [here](#).

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## Good Work Plan: Proposals to support families

### Government consultation launched

The Government has launched a new consultation on high-level options and principles to enable parents to balance the gender division of parental leave. The consultation asks whether Statutory Paternity Leave for fathers and same sex partners should be changed and for suggestions on ways in which the Shared Parental Leave Policy, introduced in 2015, could be improved.

The consultation also sets out a proposal for a new Neonatal Leave and Pay entitlement, for parents of premature and sick babies who need to spend a prolonged period in neonatal care following birth. Parents would receive one week of Neonatal Leave and Pay for every week that their baby is in hospital, subject to certain conditions which form part of the consultation. This would be available to mothers, fathers and partners.

The Government is also consulting on whether employers should publish:

- their family related leave and pay
- flexible working policies
- whether there should be a requirement for employers to consider advertising jobs as flexible.

For more information, read the full consultation [here](#).

## Parental Bereavement Leave and Pay

The Government is working to bring forward the secondary legislation necessary to implement Parental Bereavement Leave and Pay. The Government intends to introduce the new right from April 2020.

The Parental Bereavement (Leave and Pay) Act 2018 applies only to Great Britain. Currently there is no legislation to introduce parental bereavement leave or pay in Northern Ireland, therefore in this instance the measure will not apply.

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# Did you know that sickness absence costs employers around £9 billion per year?

## Do you have employees with sickness problems?

The Department of Health and Social Care and the Department of Work and Pensions have published a **consultation seeking your views on how they can best reduce the significant numbers of people that leave work each year for health reasons.**

When someone has a period of time off work due to ill-health, it can have a negative impact on your business and on the individual concerned.

**The proposals in the consultation aim to make it easier for you to support any staff members who are managing health conditions at work or returning from sickness absence.**

The proposals include:

- Making legal changes to encourage employers to take early action in a period of sickness absence;
- Reforming Statutory Sick Pay (SSP);
- Improving access to occupational health;
- Improving employers' and self-employed people's access to good advice and support.

You can help shape future plans in this area by accessing the consultation via this [link](#), which will be open until 15 October 2019.