



Prison Service
Order

ORDER
NUMBER
4460

Prisoners' Pay

Date of Re-Issue / Amendment
27/01/2020 - Revision
Amendments can be tracked in the Numerical Index.
PSI Amendments should be read before and in conjunction with PSO
Provide a summary of the policy aim and the reason for its development / revision: January 2020 – References to IEP have been changed to the Incentives Policy Framework (IPF), which came into force on 13 January 2020

PRISONERS' PAY

Introduction by the Director of Resettlement

1. This Prison Service Order (PSO) sets out Prison Service policy on prisoners' pay. It replaces the Prisoners' Pay Manual issued under cover of CI 50/92 in November 1992 and Standing Order 6B, which are hereby cancelled. Financial procedures in relation to prisoners' pay can be found in the Finance Order PSO 7500.

Performance Standards

2. This PSO underpins the prisoners' pay section of the Regimes Standard.

Output

3. The PSO applies to prisoners held in both publicly managed and contracted-out prisons, and provides both mandatory instructions and guidance on prisoners' pay.
4. Prisoners' pay, within the terms set by this PSO, continues to be a devolved responsibility. It is for Governors to set the rates of pay for their particular establishment and these should reflect regime priorities. The purpose of paying prisoners is to encourage and reward their constructive participation in the regime of the establishment. It must not therefore act as a disincentive. Pay is only one element in the process of motivating prisoners and should not be considered in isolation. Links need to be made with the incentives scheme, and other Prison Service policies for example on education, resettlement, enterprise and work, offending behaviour programmes, as well as taking account of specific groups of prisoners.

Impact and Resource Assessment

5. This PSO brings together and clarifies existing instructions. There are no additional resources for prisoners' pay. Governors must ensure that they are complying with existing policy and that their local pay scheme reflects regime priorities. There should be no increase in the workload of staff involved in managing prisoners' pay systems in prisons.

Audit and Monitoring

6. Audit requirements are set out in the Regimes and Finance Standards.

Contact Point

7. Advice about this PSO may be obtained from Martin Stephens, Prisoner Administration Group Tel:020 7217 6682.

NOTE FOR ESTABLISHMENT LIAISON OFFICERS

*ELOs must record the receipt of the Prison Service Order - **Prisoners' Pay** in their registers as issue 142 as set out below. The PSO must be placed with those sets of orders mandatorily required in Chapter 4 of PSO 0001.*

Issue no.	Date	Order no.	Title and / or description	Date entered in set	ELO signature
142	07/01/02	4460	Prisoners' Pay		

Ken Sutton
Director of Resettlement

CONTENTS

- 1 Policy on Prisoners' Pay**
- 2 Rates of Pay**
 - 2.1 General
 - 2.2 Rate of pay for unemployed prisoners
 - 2.3 Minimum employed rate
 - 2.4 Standard rates of pay
 - 2.5 Piecework
 - 2.6 Higher rates of pay
 - 2.7 Prisoners' ROTL and those on 'Working Out' schemes
 - 2.8 Tax and National Insurance thresholds
 - 2.9 Other liabilities
 - 2.10 Deductions
- 3 Productivity, Achievement and Attendance Bonuses**
- 4 Deductions for Poor Attendance or Poor Performance**
- 5 Pay in Special Circumstances**
 - 5.1 Prisoners who are short-term sick
 - 5.2 Prisoners who are long-term sick, or of retirement age
 - 5.3 Pregnant women and mothers caring for babies
 - 5.4 Prisoners attending outside hospital
 - 5.5 Transfers
 - 5.6 In-cell work
- 6 Review and Monitoring Arrangements**
 - 6.1 Management of the prisoners' pay/earnings budget
 - 6.2 Annual Review

Annexes

- A National Minimum Wage Act 1998**
- B Mandatory pay rates**

1. POLICY ON PRISONERS' PAY

1.1 It is Prison Service Policy that prisoners receive payment if they participate constructively in the regime of the establishment. The pay schemes and rates of pay which operate within establishments, are a matter for local management subject to the criteria below.

1.2 *Governors and Directors of contracted-out prisons must have a local pay structure which:*

- *reflects Prison Service priorities*
- *supports and encourages constructive participation in regime activities*
- *does not provide disincentives to participation in constructive activities which are part of a prisoner's sentence/training plan or learning plan, intended to reduce the risk of re-offending*
- *complies with the parameters of this PSO and the [Incentives Policy Framework \(IPF\)](#).*
- *rewards good performance and penalises poor performance*
- *is fair, open, balanced and affordable.*

1.3 *Governors and Directors of contracted-out prisons must ensure that:*

- *the prisoner pay structure in their establishment is reviewed annually as part of the business planning process, to ensure compliance with paragraph 1.2 above*
- *information on the pay structure is available to all prisoners*
- *prisoners are paid correctly and promptly each week*
- *procedures are in place for monitoring all aspects of prisoners' pay*
- *appropriate records are kept in accordance with the Finance Order PSO 7500*

1.4 Whatever scheme an establishment operates, it is essential that it is reasoned and structured, the requirements of the scheme are clear to both prisoners and staff, and it is not applied in an arbitrary or discriminatory way.

2. RATES OF PAY

2.1 General

- 2.1.1 *All prisoners who participate in purposeful activity must be paid. Those who refuse must not receive any pay. Prisoners may also lose earnings for disciplinary reasons. Unconvicted prisoners can work if they wish to and must be paid the same rates as convicted prisoners.*
- 2.1.2 An allowance should be made in the standard working week (see paragraph 2.4.1) of each prisoner for authorised absences from purposeful activity. These may include Governor's applications, welfare interviews, sick parade etc. These will be accommodated without loss of pay provided that the allowance is not exceeded.
- 2.1.3 Visits, other regime instigated absences specified by the Governor, Sundays and days of religious observance for prisoners of non-Christian faith will not be counted towards the interruptions allowance and will be accommodated without loss of pay. Periods in segregation for disciplinary reasons will not count towards the allowance or normally attract pay unless the prisoner is found not guilty at adjudication or the governor authorises payment at unemployed rate.
- 2.1.4 Home leave, temporary release except on facility licence, compassionate leave and court attendance will attract no pay.

2.2 Rate of pay for unemployed prisoners

- 2.2.1 Prisoners are eligible for unemployment pay if they are willing to work, but the establishment cannot find suitable employment or the prisoner is unable to work.

Mandatory:

Establishments must pay at least the minimum rate of unemployment pay as set out in Annex B

2.3 Minimum Employed Rate for All Prisoners

- 2.3.1 Prisoners who are employed in work, induction, education, training, or offending behaviour programmes will receive at least the minimum weekly rate of pay for employed prisoners. The minimum rate of pay does not preclude deductions for poor attendance or performance. Prisoners who incur deductions for poor attendance and/or performance may earn less than the minimum employed rate, provided that the deductions have been calculated according to the formula published by the Governor/Director.

Mandatory:

Establishments must pay at least the minimum employed rate of pay as set out in Annex B.

2.4 Standard Rates of Pay

2.4.1 Prisoners are eligible for standard rate of pay if they complete the full working week and demonstrate the required level of performance/effort required in any given activity in the establishment, or in any community work outside the establishment for which they are paid by the prison (see paragraph 2.7 on working out schemes).

2.4.2 The full working week in prison will normally be ten morning, afternoon, or evening sessions, or five night shifts.

Mandatory:

- *Governors and Directors of contracted-out prisons must set standard rates of pay for each job or other purposeful activity that occupies one or more full session per week.*
- *The standard rate must be at or higher than the minimum employed rate*

2.5 Piecework

2.5.1 Piecework is work which is paid for according to the quantity and quality produced. Establishments may set piecework pay schemes for certain jobs rather than a standard rate of pay. *Piecework schemes may include rates of pay below the minimum employed rate, but prisoners must have the opportunity to earn the minimum employed rate*

Mandatory:

Piecework pay schemes in prisons must specify:

- *the rate of pay and the minimum quantity and quality of production which is expected*
- *the piece or bonus rates and deductions which can be earned or forfeited, depending on individual or group productivity*

2.6 Higher Rates of Pay

2.6.1 Governors may establish Higher Rates of Pay schemes for any purposeful activity that occupies one or more full session per week. Higher rates of pay schemes are a key designated earnable incentive under the incentives policy., and may provide for pay differentials or restrict eligibility for certain activities based on incentive level, or a combination of both.

Mandatory

Higher Rates of Pay schemes must only be available to prisoners who are on enhanced or standard levels of the Incentives scheme.

2.7 Prisoners who are Released on Temporary Licence and those on 'Working Out' Schemes

2.7.1 Prisoners who are released on temporary licence are not normally entitled to earnings for the period of time they are out of the establishment except under facility

licence. Prisoners released on temporary licence are, however, entitled to travel costs and subsistence grants under the terms of chapter 14 of the Prison Service Finance Order (PSO 7500).

2.7.2 Prisoners undertaking community or voluntary work or other unpaid purposeful activity under a facility licence must be paid at a rate set by the establishment. Prisoners in these circumstances must not be expected to meet the cost of any fares or meals required to undertake the activity. The rates of pay for these activities must be published to staff and prisoners in the prisoners' pay structure.

2.7.3 Where prisoners are released on temporary facility licence under Prison Rules with the main or primary purpose of allowing them to undertake work for outside employers, they will not qualify for the national minimum wage under the National Minimum Wage Act 1998 (see Annex A).

2.7.4 However, prisoners who work for outside employers, doing a normal job (that is, one which cannot be defined as voluntary or charitable work) must be paid the appropriate rate for the job at or above the National Minimum Wage. Where prisoners work for less than the normal working week, they will be paid pro rata. It is Prison Service policy that working out arrangements must not give an unfair competitive advantage to those who employ prisoners and that prisoners must not be treated less favourably than other workers in comparable employment.

2.7.5 Where practicable, prisoners working out in paid employment are expected to meet the cost of their travel and subsistence while outside the establishment.

2.7.6 Prisoners may have the opportunity to open a bank or building society account. This is desirable in the interests of resettlement and provides an appropriate means of paying their wages if they are employed.

2.7.7 Where prisoners are permitted to open an account:

- *Prisoners must give the establishment as their address and the Governor/Director or authorised staff may inspect their financial records at any time.*
- *Prisoners must not be permitted to open or operate bank or building society accounts which allow credit. Nor may they be permitted to acquire store cards or other credit facilities while a serving prisoner.*
- *Cash, bank or building society books and cheques will not normally be permitted in possession within the establishment, but must be handed over at reception.*

2.7.8 Where it is not feasible for prisoners to operate a personal bank or building society account on these terms, establishments should deal with prisoners' monies in the normal way.

2.7.9 Further guidance on 'Working Out' schemes can be found in chapter 7 of PSO 2300 on Resettlement.

Mandatory:

- *Governors and Directors of contracted-out prisons must satisfy themselves that where prisoners are employed by outside employers they are paid wages which are comparable to normal rates paid in that industry for the work they do, and that a system is in place to process the prisoners' wages.*

2.8 Tax and National Insurance Thresholds

2.8.1 Prisoners earning over the normal thresholds for Income Tax and National Insurance contributions are not exempted from these payments.

2.8.2 Governors, Directors of contracted-out prisons and outside employers are legally required to deduct National Insurance contributions and income tax from the earnings of prisoners whose wages exceed the thresholds. They are also legally required to make employer's National Insurance contributions.

2.8.3 The thresholds are subject to change, and the Tax Liaison Officer within each establishment will be able to provide the latest figures.

Mandatory:

- *Governors and Directors of contracted-out prisons must make arrangements to deduct the appropriate National Insurance and Income Tax contributions from prisoners who are paid from their budget, who are above the normal thresholds for Income Tax and National Insurance*
- *They must equally ensure that arrangements are in place to make Employers National Insurance contributions when appropriate*
- *Governors and Directors of contracted-out prisons must ensure that outside employers of prisoners on working out schemes are informed that prisoners are not exempt from National Insurance and Income Tax contributions*

2.9 Other liabilities

2.9.1 If prisoners' earnings are high enough, they may be liable for contributions to the maintenance of their dependants, under the Child Support Act and social security regulations. *If an attachment of earnings order is received, the establishment must comply if all necessary conditions are met.* Queries on this issue or the benefits system should be addressed to the local Benefits Office.

2.10 Deductions

2.10.1 The Prisoners Earnings Act 1996 has not been implemented. Therefore, establishments have no powers to make compulsory deductions from prisoners' pay in respect of board and lodging, voluntary organisations, dependants, or savings schemes.

2.10.2 Establishments may, however, operate voluntary schemes particularly with regard to contributions to voluntary organisations and/or savings schemes, provided the terms of the scheme are clearly set out in the prisoner's compact. These may be linked to particular employment.

3. PRODUCTIVITY, ACHIEVEMENT AND ATTENDANCE BONUSES

3.1 Governors and Directors of contracted-out prisons may establish systems of bonus payments to recognise and reward productivity, achievement such as obtaining nationally recognised qualifications or reaching challenging sentence plan targets, or additional hours (attendance) in purposeful activity. Bonus payments are a privilege for prisoners, not a right.

Mandatory:

- *Governors and Directors of contracted-out prisons must publish the criteria for bonuses and ensure that they are applied consistently.*
- *The bonus must be recommended by the manager of the activity and approved by a senior manager or senior budget holder.*

4. DEDUCTIONS FOR POOR ATTENDANCE OR POOR PERFORMANCE

Mandatory:

- *Governors and Directors of contracted-out prisons must establish systems of deductions from prisoners' pay to address poor attendance or performance.*
- *Governors and Directors of contracted-out prisons must publish the criteria for deductions and ensure that they are applied consistently.*
- *The deduction must be recommended by the manager of the activity and approved by a senior manager.*
- *Bad behaviour by prisoners, including abuse of staff, breach of health and safety regulations, and misuse of materials, tools and equipment and other offences against good order and discipline are serious events, and must be formally managed through the incentives scheme or the Prison Discipline system as appropriate.*
- *Deductions must not be made for poor performance on offending behaviour programmes unless it concerns failure to attend.*

5. PAY IN SPECIAL CIRCUMSTANCES

5.1 Prisoners who are Short-Term Sick

5.1.1 Prisoners who are unable to work for short periods of time up to four weeks are defined as short-term sick. Prisoners who are sick for four weeks and over are to be treated as long-term sick.

Mandatory:

Establishments must pay the minimum rate of pay for short-term sickness as set out at Annex B

5.2 Prisoners who are Long-Term Sick, or of Retirement Age

5.2.1 This Order sets a rate of pay for prisoners who are long-term sick or of retirement age.

(i) Long-Term Sickness

5.2.2 This Order defines long-term sick prisoners as those who have been diagnosed as unfit for work by the Medical Officer of the establishment, and who are therefore unable to undertake employment for an extended period of time - normally four weeks and over.

5.2.3 These prisoners may only be required to participate in other purposeful activity as identified by the sentence/training plan or learning plan if the Medical Officer and/or any specialists consulted by the Medical Officer agree that it is appropriate and within the prisoner's capabilities.

5.2.4 There are separate arrangements (see paragraph 5.4 below) for prisoners staying in outside hospital.

(ii) Prisoners of Retirement Age

5.2.5 Prisoners of state retirement age are not normally required to work. They may work for standard rates of pay if they choose, provided there are suitable activities available in the establishment.

5.2.6 Prisoners of state retirement age can, however, be required to participate in other purposeful activity as identified by the sentence/training plan or learning plan. They should be paid at the standard rate for these sessions. Unreasonable refusal renders them liable to be classified as "unwilling to work", and therefore not to receive any pay.

Mandatory:

Subject to 5.2.6, establishments must pay the rate of pay for prisoners who are long-term sick or of state retirement age as set out in Annex B.

5.3 Pregnant Women and Mothers caring for Babies

5.3.1 This Order sets a rate of pay for maternity leave in prison. Maternity Leave may apply during pregnancy, and after the birth whilst mothers have their babies with them in prison.

5.3.2 A pregnant woman is, however, entitled to the standard rate for the job while she continues to work before giving birth. If she is subject to periods of short-term sickness, but wishes in principle to continue working, *she must receive the rate of pay for short-term sickness.*

5.3.3 Women staying overnight at outside hospital to give birth are not entitled to earnings, *but must receive the allowance for staying overnight in outside hospital* (see paragraph 5.4).

5.3.4 If a mother does not keep her child with her in prison, there is an expectation that she will return to work after a satisfactory post-natal check. At this point, she returns to normal rates of pay, whether employed or unemployed. *Deductions from pay must not be made for attendance at contact visits with the newly born child.*

5.3.5 If a mother keeps her child with her in prison and is not employed, she is entitled to receive the maternity leave rate whilst her child is with her. If she is employed, she is entitled to the rate for the job, as normal.

Mandatory:

- *The rate of pay for prisoners who are on maternity leave, or caring full-time for children, is set out in Annex B*
- *Governors and Directors of contracted-out prisons which hold female prisoners must ensure that the rate of pay for prisoners who are on maternity leave or caring full-time for children is published to staff and prisoners*
- *The Medical Officer is responsible for confirming whether a prisoner is short-term sick, on maternity leave, or fit to return to work following pregnancy or birth*

5.4 Prisoners attending Outside Hospital

5.4.1 Prisoners who stay overnight in an outside hospital, whether on temporary release or under escort, are not paid earnings but are eligible for an allowance. In these circumstances prisoners may be allowed to keep the cash in their possession.

Mandatory:

- *Prisoners who stay overnight as patients must be paid a hospital allowance to cover personal expenditure.*
- *Establishments must pay at least the rate of allowance set out in Annex B*
- *If a prisoner returns to work mid-week after a stay in hospital s/he must be paid for the work s/he does*
- *An appointment at hospital as a day patient, which has been made or approved by healthcare staff, does not attract an allowance, but the prisoner must continue to be paid at their relevant rate of unemployed, employed or standard pay.*

5.5 Transfers

- 5.5.1 On transfer, prisoners in previously paid purposeful activity will receive not less than the minimum employed rate for the first two weeks at their establishment. After two weeks the prisoner must either continue to receive their new standard rate of pay appropriate to the activity or return to the unemployed rate of pay if no employment is available. Other prisoners will receive immediately on transfer the rate appropriate to their activity (if any) in the new establishment.
- 5.5.2 Prisoners who are transferred between establishments for accumulated visits will be paid if they work satisfactorily, while so transferred, either at the rate they were receiving prior to transfer (based on their average earnings over the previous four weeks) or at the rate that is appropriate to the activity on which they are employed after transfer, whichever is the higher. Prisoners for whom no work can be found will be paid at their standard rate prior to transfer.
- 5.5.3 If necessary, advances of pay may be given to a prisoner by the establishment. Such circumstances might include on first reception or to enable a prisoner to take up outside employment. Advances should be repaid in accordance with the Finance Order and must be completely repaid before discharge. *The terms of recovery of advances must be clearly explained to the prisoner at the time of issue.*

5.6 In-Cell work

- 5.6.1 Prisoners working in their cell as part of the core day or sentence or learning plan will be paid at the standard rate for the activity. Prisoners voluntarily working in their cell outside the core day and who are producing goods or work for bona fide charities or similar organisations with the agreement of the establishment, may receive payment for their work from the outside body. *In these circumstances, the money must be paid into their private cash account and will be subject to the limitations on private cash under the IPF.*

6. REVIEW AND MONITORING ARRANGEMENTS

6.1 Management of the Prisoners' Pay/Earnings Budget

Mandatory

- ◆ *A senior manager must be accountable for the management of the prisoners' pay/earnings budget, and for the prisoners' pay structure in the establishment*
- ◆ *Establishments must have procedures in place for monitoring all aspects of prisoners' pay.*
- ◆ *Financial records must be kept in accordance with the Finance Order PSO 7500*
- ◆ *Errors must be corrected and rectified in the following week*

6.2 Annual Review

6.2.1 *The pay structure must be reviewed annually in accordance with 1.3.*

ANNEX A TO PSO 4460

NATIONAL MINIMUM WAGE ACT 1998

A1 Under section 1(2) of the National Minimum Wage Act 1998, only UK 'workers' above a certain age are capable of qualifying for the national minimum wage. Section 54(3) defines 'worker' to mean an individual who has entered into or works under a contract of employment or other contract of work or services.

A2 Under section 45 (reproduced in full below) a prisoner does not qualify for the national minimum wage where he or she works in pursuance of Prison Rules.

"45. (1) A prisoner does not qualify for the national minimum wage in respect of any work which he does in pursuance of prison rules.

(2) In this section -

'prisoner' means a person detained in, or on temporary release from, a prison;

'prison' includes any other institution to which prison rules apply;

'prison rules' means -

(a) in relation to England and Wales, rules made under section 47 of the Prison Act 1952;

(b) in relation to Scotland, rules made under section 39 of the Prisons (Scotland) Act 1989; and

(c) in relation to Northern Ireland, rules made under section 13 of the Prison Act (Northern Ireland) 1953."

ANNEX B TO PSO 4460

MANDATORY PAY RATES

Unemployment pay

Minimum £2-50 per week (50p a day) based on a five-day week (see section 2.2)

Employed rate

Minimum employed rate of pay is £4-00 per week (see section 2.3)

Short-term sickness

The rate of pay for short-term sickness is £2-50 per week (see section 5.1)

Long-term sickness and retirement

The rate of pay for prisoners who are long-term sick or of retirement age is £3-25 per week (see section 5.2)

Maternity leave or caring full-time for children

The rate of pay for prisoners who are on maternity leave, or caring full-time for children is £3-25 per week (see section 5.3)

Outside hospital allowance

The allowance for prisoners staying in hospital is £4-35 per week or 60p per day (see section 5.4). Governors have discretion to increase this allowance if it is justified.