



National Offender Management Service

PRISONERS' EARNINGS ACT 1996		
This instruction applies to:		Reference:
Prisons		PSI 76/2011
Issue Date	Effective Date <i>Implementation Date</i>	Expiry Date
11 February 2016 (Revised)	20 December 2011	N/A
Issued on the authority of	NOMS Agency Board	
For action by	<p>All staff responsible for the development and publication of policy and instructions</p> <ul style="list-style-type: none"> <input type="checkbox"/> NOMS HQ <input checked="" type="checkbox"/> Public Sector Prisons <input checked="" type="checkbox"/> Contracted Prisons* <input type="checkbox"/> NOMS Immigration Removal Centres (IRCs) <input type="checkbox"/> National Probation Service (NPS) <input type="checkbox"/> Community Rehabilitation Companies (CRCs) <input type="checkbox"/> Other Providers of Probation and Community Services <input checked="" type="checkbox"/> Governors <input type="checkbox"/> Heads of Groups <input type="checkbox"/> NOMS Rehabilitation Contract Services Team <p>* If this box is marked, then in this document the term Governor also applies to Directors of Contracted Prisons</p>	
Instruction type	Legal compliance	
For information	Governing Governors & Directors and Controllers of Contracted Prisons of prisons from which prisoners undertake paid work outside the prison	
Provide a summary of the policy aim and the reason for its development / revision	<p>Update February 2016: This PSI was first issued on 20 December 2011. This instruction has been updated to reflect a NOMS bank account change, in line with all other government departments. The Memorandum of Understanding (Annex C) between the prison and employer has been amended deleting reference to Citi bank. Establishments are also reminded of the expectations on them when submitting the PEA001 form to Shared Services. No other amendments (except minor PSI referencing and template changes) have been made.</p> <p>N.B This change involves minor amendments to PSI 13/2015 Release on Temporary Licence (ROTL) (updated Memorandum of Understanding between the prison and external employer) and PSI 72/2011 Discharge (reminder to update the PEA001 form on release), which will be amended in due course.</p>	
Contact	Equality, Rights and Decency Group Policy Team ERDGPolicyandRegulation@noms.gsi.gov.uk	

Associated documents	PSO 2300 Resettlement PSO 4460 Prisoners' Pay PSI 13/2015 - PI 10/2015 Release on Temporary Licence (ROTL) PSI 44/2014 - AI 28/2014 - PI 61/2014 DPA 1998 FOIA 2000 EIR 2004 PSI 02/2012 Prisoner Complaints PSI 1/2012 Manage Prisoners' Finance PSI 72/2011 Discharge PSI 44/2011 'Identity (ID) for Bank Account Applications for all prisoners' PSI 16/2010 Confiscation Orders PSI 35/2009 Prisoner Bank Accounts as amended by PSI 44/2011 Identity for Bank Account Applications
Replaces the following documents which are hereby cancelled: None	
Audit/monitoring: To be monitored by Governing Governors, Directors and Controllers of Contracted Prisons	
Introduces amendments to the following documents: PSI 13/2015 ROTL PSI 72/2011 Discharge <i>(Copies held on the NOMS Intranet will be amended; hard copies must be amended or cross referenced locally.)</i>	
Notes: All mandatory actions throughout this instruction are in italics and must be strictly adhered to.	

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1. Executive summary

Update

- 1.1 NOMS along with all other government departments are undergoing a change to their banking arrangements. From 17 February 2016, NOMS will no longer be banking with Citi bank. The Natwest (RBS) account, which is currently only used for cheque and cash payments, will remain in place and be the only bank account used. On 31 March 2016 the Citi bank account will be closed and it is possible that any payments made to that account from then on will be returned to sender. As a result of this change, all references to the Citi bank account have been replaced with the RBS details in this PSI at paragraphs 1.13, 2.1.5 and [Annex C](#). The Memorandum of Understanding at Annex C has also been replaced with the updated version that is in the ROTL policy ([PSI 13/2015](#)). The letter to employers at [Annex F](#) also now incorporates a reminder that they must quote the prisoner's reference on all payments to avoid delays in processing.
- 1.2 A reminder has also been included at paragraph 2.1.4 of the requirement on prison staff to submit PEA001 forms promptly to Shared Services. Late or no notification of amendments to the levy rate for prisoners exiting the scheme or a particular employer withdrawing from the scheme can result in over/underpayments. The former requires a process of debt recovery which is relatively simple if the prisoner is still working. However often if the prisoner has been discharged, it may need to be written off by the establishment. The latter would most often require a refund to be made to the prisoner, the calculation of which is a complex and time consuming process.

Background

- 1.3 The Prisoners' Earnings Act 1996 (PEA) and related Rules came into force on 26 September 2011. Under the terms of the Act, prisoners who are undertaking paid work in the community and earning in excess of £20 a week may be made subject to the imposition of a levy amounting to up to (and including) 40% of their remaining earnings ('the excess'). The levy is applied to earnings over £20 per week, so if a prisoner earns £25 per week net, the levy is made only from £5 per week, not the full £25. Levies are currently paid to such voluntary organisations concerned with victim support or crime prevention or both as may be prescribed. The PEA defines "net weekly earnings" as weekly earnings after deduction of such of the following as are applicable, namely –
- (a) income tax;
 - (b) national insurance contributions;
 - (c) payments required to be made by an order of a court; and
 - (d) payments required to be made by virtue of a maintenance assessment within the meaning of the Child Support Act 1991.
- 1.4 This instruction is relevant only to prisoners working outside the prison for outside employers

Desired outcomes

- 1.5 Governors will consider imposing a levy on the earnings of prisoners who are undertaking paid work in the community as described in this Instruction.
- 1.6 Prisoners subject to the levy will be supplied with a monthly statement showing the net earnings received by them from their employer, the amount levied, and the balance (which will be paid into their external bank account).

- 1.7 Where necessary, assistance should be given to prisoners in setting up an external bank account. [PSI 44/2011 Identity \(ID\) for Bank Account Applications for all prisoners](#) refers to the setting up of accounts.
- 1.8 For public sector prisons, a central service arrangement has been made with Shared Services to administer levy receipts on behalf of Governors. For those prisoners who are subject to the levy (see paragraphs 1.3 and 1.12) all subsequent net earnings from work undertaken outside the prison where the prisoner is in the employment of an outside employer are paid by employers into a central account specified in this Instruction. Shared Services calculate the necessary adjustment to the prisoner's earnings to take account of the levy, and arrange for the balance to be paid into prisoners' bank accounts.

Application

- 1.9 This instruction applies to prisoners who are undertaking paid work in the community as part of their resettlement.
- 1.10 *Governors must ensure that relevant staff and prisoners are familiar with the procedures set out in this instruction.*
- 1.11 It is expected that this instruction will apply only to open prisons. However, in the event that any prisoners held in closed prisons are working outside the prison on a regular basis and meet the test as set out paragraph 1.3 above, they will also be affected and prisons will have to put in place the appropriate arrangements for deductions of pay.
- 1.12 It is the Government's policy that the discretion which Governors have to impose the levy should generally be exercised in favour of imposing it. However Governors do still retain a discretion as to whether to impose a levy in each case, and at what level. [Annex B](#) provides guidance on the exceptional circumstances in which it may be inappropriate to impose a levy. See also para 2.1.13 below.

Mandatory actions

- 1.13 *Governors must ensure that:*

- *They consider imposing a levy in accordance with this Instruction;*
- *all prisoners affected, relevant staff and employers are fully aware of the requirements set out in this PSI and the purpose behind them;*
- *in public sector prisons, there is an efficient system in the prison to ensure that Shared Services and employers are provided with accurate information by specified time scales;*
- *contracted prisons have effective arrangements in place to impose a levy on any prisoners to whom this instruction applies and to transfer the deductions to;*

Bank:	Natwest
Account Name:	NOMS with National Probation
Account Number:	10002383
Sort code:	60-70-80

The remittance notice should state: 'Transfer of Prisoner Earnings Receipts to Victims and Witnesses Unit - Business Entity Code RB311'

- *prisoners are issued with a statement monthly (which for public sector prisons the Shared Service Centre will provide to prisons);*
- *model placement Memoranda of Understanding (MOU) ([Annex C](#)) are used, reflecting the changes required;*

- *Send a letter to new employers who are to employ a prisoner who will be liable to a levy under the PEA ([Annex F](#) refers);*
- *Existing employers who are taking on new prisoners to be alerted when prisoner is liable to PEA levies;*
- *Consider any liability resulting from an outstanding confiscation order and the impact on levies under the PEA;*
- *all information is held in a way which is fully compliant with the Data Protection Act 1998 (see [PSI 44/2014 The Data Protection Act 1998](#)).*

Resource Impact

- 1.14 The minor change to NOMS bank account details requires prison staff at affected prisons to send written communication to relevant existing employers highlighting the changes. A template letter has been provided. There are no new ongoing requirements as a result of this change.

(Approved for Publication)

Digby Griffith
Director of National Operational Services, NOMS

2. Operational instructions

Level of deductions

- 2.1.1 As set out in paragraph 1.3, the Act and related Rules set the maximum level of deductions as being 40% of the excess of net weekly earnings over £20. Net weekly earnings are calculated after deduction of income tax, national insurance, and court ordered and child support payments. However, Governors have discretion to set the levy at a lower rate, or not to impose it, in individual cases.
- 2.1.2 The instructions below set out the processes to be followed by public sector prisons in arranging for the levy to be collected by Shared Services.
- 2.1.3 At the present time, the system established by Shared Services has been set up to process deductions on the basis of the maximum 40% rate, though it is capable of starting the deductions at different levels of net earnings. Therefore, in public sector prisons using the Shared Services to collect the levy, if the Governor decides to set the levy at a lower rate in an individual case, it will be necessary for the purposes of the deduction process to calculate an additional "levy free allowance" so that a deduction of 40% on the remainder will lead to an overall deduction that the governor wishes to achieve.

For example:

Prisoner earns £70 per week. The amount deducted is up to £20 (40% of £50: £70 - £20 levy free allowance). The Governor wishes to levy 10% (£5) due to the prisoner's substantial travel costs. Therefore the Governor must instruct SSC to increase the "levy free allowance" to £57.50 and levy 40% on £12.50 resulting in a deduction of £5

- 2.1.4 Shared Services will administer the scheme, make the necessary adjustments to reflect the levy which is imposed, and will make payments to the prescribed voluntary organisations (victim support or crime prevention). *However, to ensure that the adjustments are made in a correct and timely manner, prison staff must ensure that the PEA001 form ([Annex G](#)) is provided to Shared Services via email address: banking-prisonerearnings@noms.gsi.gov.uk as soon as possible whenever a prisoner starts working out or their circumstances change.*

For new entrants:

- Establishments are required to submit a PEA001 form to Shared Services for all **NEW** entrants into the scheme. This is crucial to ensure payments are made for the correct value(s) and in a timely manner.

Change to prisoner's details:

- Establishments are required to submit a further PEA001 **AMENDMENT** form to Shared Services, in circumstances where there is an element of change to a prisoner's details. This is crucial to ensure payments are made for the correct value(s).

Prisoners discharged from custody:

- Establishments are required to submit a PEA001 **EXIT** form to Shared Services. This is crucial to ensure payments are made for the correct value(s) and the risk of incorrect payments mitigated.

- 2.1.5 All employers need to be made aware of the purpose behind the imposition of the levy and that there is a requirement for them to make all BACS payments to the NOMS bank account, details of which are set out below. A sample letter which should be sent to all new employers, has been provided at [Annex F](#) which includes the references employers should include when they make payment ie; PEA/Prisoner number/Establishment number/Prisoner name . They should also be given contact details of someone within the prison.

NOMS Bank Details

Bank Name: Natwest
 Sort Code: 60-70-80
 Account Number: 10002383
 Account Name: NOMS with National Probation
 Prisoner Name:
 Prisoner Number:
 Amount paid to prisoner:

- 2.1.6 In the majority of cases employers will pay prisoners through the BACS system however, in exceptional circumstances, where prisoners are paid by cash or cheque employers can pay into any Natwest branch quoting the above bank account. If paying in cash or cheques at a branch, please e-mail a remittance to banking-prisonerearnings@noms.gsi.gov.uk, stating prisoner name and number.

- 2.1.7 To ensure that prisoners receive their weekly/monthly salary from Shared Services, prisoners will need to provide the following information.

Prisoner Bank Account Number
 Prisoner Bank Sort Code Number
 Name of bank
 Name of bank account

An example pro- forma can be found at [Annex D](#).

- 2.1.8 The implementation of the PEA means that prisoners are no longer paid directly by their employer and that there could be delays of up to 5 working days before prisoners receive payment into their personal bank account. Cheque payments will incur further delay because they will require clearing before being processed.

- 2.1.9 *Prisons must ensure that all local paid work placement Memoranda of Understanding follow the template at [Annex C](#).*

- 2.1.10 It is a requirement of the Act that prisoners are issued with a monthly statement. This will be provided by Shared Services and sent to prisons for distribution. An example of a monthly statement is shown at [Annex E](#).

- 2.1.11 *When a prisoner's release date previously notified to Shared Services is changed, for example by the granting of Home Detention Curfew (or, in the case of an indeterminate sentence prisoner, when a release date is set), the prison must notify Shared Services by submitting a PEA001 Amendment form. This will ensure that any late payment made by the employer does not incur deductions and can be forwarded on to the prisoner. Shared Services will need to know and capture release dates to ensure that the adjustment is correct.*

2.1.12 The prisoner should be advised to inform their employer of the date of their release and details of their personal bank account, in order to ensure that there is minimal disruption on release. It would be good practice for the prison to ensure that the employer has the correct release date.

2.1.13 The Government's recommendation is that governors should not impose levies on prisoners with less than one month to serve at the point at which they start outside employment. This is because the administrative costs of setting up deduction arrangements for such a short period and would be disproportionate to the value of the deduction.

Reductions and exemptions to the Levy

2.1.14 Where a prisoner has applied for an exemption from, or reduction in, the levy, [Annex B](#) provides guidance on some of the types of exceptional circumstances governors might wish to consider when deciding whether or not to exempt a prisoner from the levy, or to reduce the amount of levy to be imposed. Where a governor decides to levy at a rate of less than 40%, or not at all, the governor should include the total amount to be exempted from the "net weekly earnings" into the PEA001 form and forward the form to the SSC, in order for the levy to be imposed on the appropriate amount of the "net weekly earnings". Shared Services will then deduct the figure provided on the PEA001 form from the net weekly wage paid by the employer and will impose a levy of 40% of the balance after the first £20, and pay the balance into the prisoner's private bank account.

Confiscation orders

2.1.15 *Where a prisoner is making payments towards a confiscation order the net amount on which the levy can be imposed must be reduced by the amount of the payment.* This is because the payments made towards the confiscation order are a court ordered payment. Once the payments have been taken into account, if the prisoner's remaining net weekly earnings, after making confiscation order payments, are less than £20, there will be no levy. *If the confiscation order payments are at a different interval than the prisoner's earnings are paid (for example if a prisoner is making monthly confiscation order payments but is paid weekly, or vice versa), then the amount to be deducted from net earnings must, of course, be multiplied or divided as appropriate.*

2.1.16 *To inform Shared Services of cases in which prisoners are making payments to satisfy an outstanding confiscation order, the PEA001 form must set out the amount of monies the prisoner is paying towards the order and be sent to the SSC, in order that the amount can be taken into account in terms of determining the "net weekly earnings" on which the levy may be imposed.* Policy on Confiscation Orders is set out in [PSI 16/2010](#).

2.1.17 *Where a prisoner:*

- *refuses to comply with a court-ordered payment schedule that is effective at the point at which the prisoner is eligible for outside paid employment; and/or*
- *is not required to satisfy the order until a future date; and/or*
- *is not voluntarily making payments to satisfying an order which is not due to be satisfied until a future date*

The total amount owed in respect of the confiscation order must be ignored for the purposes of determining the "net weekly earnings". Therefore, unless the imposition of the levy is to be reduced or not imposed as a result of other circumstances, a levy of 40% will continue to be deducted from "net weekly earnings". Governors will also, of course, take the confiscation order situation into account in the risk assessment to determine whether the prisoner should be allowed out on licence to work.

Currently, the PEA001 form cannot distinguish between exemptions from / reductions in the levy related to confiscation orders and those where the Governor has exercised their discretion for other reasons. *As a result, governors must ensure that, in cases where a prisoner's "net weekly earnings" have been reduced as a result of monies being paid towards satisfying a confiscation order, and where the levy is further reduced for exceptional circumstances, a single figure covering the total cash amounts of both the confiscation order and exceptional circumstances elements is inserted into the PEA001 form and forwarded to Shared Services in order for the appropriate amount to be levied.* Shared Services will then deduct the figure provided on the PEA001 form from the net weekly wage paid by the employer and will impose a levy of 40% of the balance after the first £20.

Prisoner complaints and appeals

- 2.1.18 Any complaints from prisoners or appeals against being required to pay the levy will fall to be dealt with under the normal prisoner complaints process (see [PSI 02/2012 Prisoner Complaints](#)).
- 2.1.19 Where a prisoner believes that the calculation of the levy is incorrect, they should raise this with the prison, which will contact Shared Services on their behalf (Finance Contact Centre) or email Banking-PrisonerEarnings@noms.gsi.gov.uk. Only queries regarding the calculation of the levy should be addressed to Shared Services. Shared Services are not able to respond to enquiries direct from individual prisoners, and prisoners must not be advised to contact Shared Services.
- 2.1.20 Any complaints or queries about the policy, as opposed to individual cases, should be addressed to the contact point on the front of this PSI.

Notice to Prisoners

The Prisoners' Earnings Act 1996

The Government is committed to offenders making reparations to victims and society. The Green Paper "Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders", published set out the aims, one of which is to implement the Prisoners' Earnings Act 1996 (the PEA). This gives the governor a power to impose a levy on your earnings in certain circumstances. This means that if you are working outside the prison on licence you will be subject to the levy.

What is happening and when?

When the PEA was brought into force on 26th September 2011, and providing you earn more than £20 net per week ("net" means after you have paid any tax, national insurance contributions, court-ordered and child support payments that may be due), any earnings over £20 may well be subject to a levy of up to (and including) 40%.

For instance, if you earn £25 per week, the last £5 of your earnings could be subject to a levy of 40% (£2). Your overall earnings would in that case therefore be reduced from £25 to £23.

The amount of the levy will be paid to such voluntary organisations concerned with victim support or crime prevention or both.

What does this mean for me?

To make sure that the levy is correctly calculated, you will not be paid directly by your employer. They will provide you with a payslip, but your net pay will be paid first into a central bank account so that Shared Services can administer the levy on behalf of the Governor. Shared Services will then make a deduction as described above, and the balance will be transferred to your outside bank account. The process may take up to 5 days, so you should expect a delay. However, if you are paid by cheque this may mean you could experience a longer delay as the cheque will require clearing before being processed. The prison will provide you with a monthly statement; which will show you what your net pay was from your employer, how much was taken off by way of the levy, and how much will be transferred into your outside bank account.

What do I need to do?

First thing you need to check is that you have an outside bank account. If you don't then you need to arrange to set one up. Your prison will assist you to do this. You will then have to provide the prison with the following details:

Name of Bank
Name of Account Holder (usually your name)
Account Number
Sort Code Number
Roll Number (only applicable for Building Society accounts)

The prison should provide you with a proforma to complete. Please make sure that you give the prison the correct details as any mistakes could cause delay when you receive your pay.

If you refuse to provide your outside bank details or refuse to set up an outside bank account, you will no longer be allowed to work outside in paid employment. Shared Services can pay the money into someone else's bank account if you ask them to do so, but this is at your risk.

The prison should have provided your employer with your date of release however, it's important that you make them aware of the date and give them your personal bank account details nearer the time. This will make sure that you will receive your pay as usual.

Who should I contact if I have a query?

Please speak to [prison to provide contact name and details] about any questions you may have or if you experience any problems with your final net pay.

Annex B**Exceptional Circumstances**

The Government has previously set out its commitment to implementing the Prisoners' Earnings Act 1996.

Government policy is that levies should be made on earnings of those prisoners working outside the prison for outside employers. However, because the Act stipulates that Governors may impose a levy it is open to Governors to decide not to do so, or to impose a levy at a rate lower than the maximum permitted 40%, in a particular case (but see instructions at section 2 for an explanation as to how this is effected for prisons using the Shared Service Centre).

Any applications by prisoners to be exempted from the levy (or to have the levy reduced), must be considered on their individual merits, having regard to the circumstances of the individual prisoner.

In light of Government policy, we anticipate that exemptions from (or reductions in) the levy will be infrequent and will be granted only in exceptional circumstances.

This note gives guidance as to the factors that we recommend Governors consider when considering exempting a prisoner from the levy, or reducing it.

- If the prisoner can show that the imposition of the levy at the rate at which it is being imposed would lead to the prisoner or their family suffering severe financial hardship, then this may constitute an exceptional circumstance leading to reduction or non-imposition of the levy. Governors may wish to consider whether the prisoner normally (ie when not in prison) has responsibility for the care or maintenance of a child or children, and whether the imposition of the levy at the rate at which it is imposed would damage the prisoner's relationship with that child or those children. When considering applications on the basis of severe financial hardship, Governors may wish to consider the length of time for which the prisoner was working out prior to imposition of the levy, and therefore how their financial commitments have changed.
- We also recommend that consideration is given as to whether the prisoner's financial commitments result from financial activity that is in fact prohibited under PSI 1/2012 Manage Prisoners' Finance.
- We recommend that Governors consider applications for exemptions or reductions reflecting travel costs where these are substantial in proportion to earnings, and in particular those applications that arise from unusual circumstances, for example where a prisoner with a disability incurs a significantly greater travel cost than a non-disabled prisoner undertaking the same journey.
- If considering an exemption, Governors should aim to be reasonably satisfied as to the accuracy of the facts claimed. The onus of producing documentation to substantiate the application should be on the prisoner.
- Any decision to exempt the prisoner from the imposition of the levy must be recorded on the prisoner's personal file.

This is not an exhaustive list of the matters that may be taken into account.

Annex C

MODEL PLACEMENT MEMORANDUM OF UNDERSTANDING - Paid Placement

(This model placement Memorandum of Understanding is designed to cover situations in which a prisoner undertakes any paid external placement. A separate model Memorandum of Understanding covers unpaid external placements).

MEMORANDUM OF UNDERSTANDING

(PAID EXTERNAL PLACEMENT)

INTRODUCTION

1. The purpose of this Memorandum of Understanding is to ensure that all those who are party to it (the Offender, the Employer and the Establishment) are aware of the arrangements under which the placement will take place.
2. Nothing in this memorandum should be taken to prevent the employer entering into a written contract of employment with the offender in preparation for their release.

THE OFFENDER

3. [Name of offender] is reminded that:
 - i. As a serving offender, he/she will be subject to Prison Rules throughout the duration of the placement. Payments for work will, if above the specified threshold, be subject to a levy under the Prisoners' Earnings Act 1996. For further details, please see PSI 76/2011.
 - ii. He/She will be released on Resettlement Day Release (RDR) to undertake the placement. The RDR licence will specify the time, location and purpose of the release. The terms of the RDR licence may be varied only on the authority of the governor.
 - iii. A copy of the RDR licence will be given to the employer by the establishment at the start of the placement.
 - iv. He/She must comply fully with the terms of the RDR licence and that any breach of the terms of the licence may lead to disciplinary action and the cancellation of the placement.
 - v. He/She must comply fully with the reasonable instructions of the employer (and any of the employer's employees who have responsibility for him/her), particularly in relation to timekeeping, performance and general conduct.
 - vi. He/She must identify to the Establishment the bank account into which the payments for their work will be made at least [xx] days in advance of their employment beginning or, if the work begins within [same xx] or fewer days of the offender obtaining the position, as soon as possible. Failure to do so will mean that payments are delayed.
 - vii. Failure to provide personal bank account details will result in the offender not being permitted to undertake a paid work placement

4. [Name of offender] agrees to the disclosure of previous convictions, that is not prohibited by the Rehabilitation of Offenders Act, to specified persons within [name of employer] for use solely by [name of employer] in the management of the placement, including checks on [name of offender] behaviour by persons authorised to act on behalf of [name of establishment]. (See paragraphs 5vii and 9iv, below).

THE EMPLOYER

5. [Name of employer] is reminded that:
- i. They will ensure that the placement complies with all relevant health and safety and equal opportunities legislation and will make available certificates of insurance and certificates relating to safe working practices for inspection by [name of establishment].
 - ii. They will be clear about the range of work activities entailed in the placement, and engage with us about any proposed changes to those activities before they occur.
 - iii. They will monitor the timekeeping, performance and general conduct of [name of offender] and provide [name of establishment] with reports at intervals of[] weeks or as required.
 - iv. They will facilitate a programme of checks by staff from [name of establishment] to check on [name of offender]'s adherence to the terms and conditions of their temporary. These will be of 4 types:
 - Visit
 - Telephone (at least one per month)
 - Risk based (insert relevant frequency from Risk below)
 - Request of employer
 - v. The offender will be assessed to ascertain check requirement levels as defined below:

Standard ROTL–the minimum requirement for spot checks for **STANDARD ROTL cases is that there must be visits in 10% of cases per week.**

Restricted ROTL–the minimum requirements for spot checks for **RESTRICTED ROTL cases are that there must be a telephone check in 50% of cases per week and visits in 20% of cases per week.**

- iv. They will participate in meetings (on a timescale to be agreed with [name of establishment]) to review the progress of the placement.
- vi. In the event of any breach or suspected breach of the terms of his/her RDR licence by [name of offender] or any breach of the Employer's own rules governing the conduct of its employees, [name of employer] will inform [name of establishment] immediately.
- vi. They will not ask [name of offender] to do or not to do anything which might constitute a breach of any condition(s) of his/her RDR licence.
- vii. They must not divulge to a third party any information about [name of offender], and must immediately report any approaches from a third party. They must comply in all respects with the provisions of the Data Protection

Act 1998 and the two organisations will agree in writing the names/positions of [name of employer]'s staff who will have access to confidential information about [name of offender] who must in turn have a copy of these details. (See paragraphs 4 and 9iv).

6. [Name of employer] certifies that serving offenders do not constitute a majority of its workforce and that its business is not dependent on offender labour.
7. The amount of remuneration agreed between the governor and [the employer] is [insert amount per hour].
8. When setting the rate it is critical that due consideration is afforded to the risk of the perception of under cutting the local workforce. Accordingly, there is an explicit expectation that the level of remuneration is no lower than the level which a member of the public would be expected to receive for the same task. Where a wage lower than the National Minimum Wage is considered appropriate in the initial stages of a placement, there should be a clear path towards paying the National Minimum Wage by the three month point of any placement or, if appropriate, at an earlier stage.
9. Where the employer is providing meals or transport or other expenses which an employee would normally be expected to fund themselves, the employer may make appropriate deductions for these costs where these costs are agreed with both the prison and the offender.
10. [Name of employer] further confirms that gross pay less the deductions which they make, such as income tax and National Insurance, to [name of offender] will be made into NOMS Bank Account, details of which are set out below:

BACS, CHEQUE AND CASH PAYMENTS

Bank Name:	Natwest
Account Number:	10002383
Sort code:	60-70-80
Account Name:	NOMS with National Probation

Payments must not be made direct to the offender

11. [Name of employer] should provide the following information when making payment which will enable Shared Services staff to identify the relevant offender:
 - Name of employee (offender)
 - Prison number (if available)
 - Name of Employer
12. [Name of employer] will provide pay advice direct to the offender

THE ESTABLISHMENT

13. [Name of establishment] is reminded that it will:

- i. Agree with the host organisation the criteria of offender with regards to current and previous offences. Due consideration must be given to the suitability of engagement in the activity, e.g. sector, interface either directly or indirectly with children or other vulnerable groups etc.
- ii. Risk assess [name of offender] in relation to the nature of the placement before RDR can be approved.
- iii. Assess the potential risks and public acceptability of the work activity itself, and consider appropriate controls if placements are judged appropriate.
- iv. Monitor [name of offender] compliance with the terms and objectives of his/her RDR licence by means of site visits and telephone checks.
- v. Inform [name of employer] if [name of offender] 's RDR licence is suspended or withdrawn. This information will be provided as soon as possible and, in the case of a suspension, information on the reinstatement of the RDR licence will be supplied.
- vi. Provide information on [name of offender]'s criminal record to [name of employers] in confidence. (See paragraphs 4 and 5 vii, above).

(points vii to x are applicable to Public Sector Prisons only)

- vii. Provide the following information to Shared Services:
 - Offender Name
 - Offender Number
 - Offender Release Date
 - Establishment
 - Employer
 - Value of payment to offender (net of PAYE)
 - Frequency – Weekly/monthly
 - Date Paid
 - Period Worked
- viii. Ensure offenders have completed personal bank account details and submit to the Shared Services.
- ix. Ensure deduction statements prepared by Shared Services are issued to offenders.
- x. Act as an intermediary between offender/employer and Shared Services.

GENERAL

14. [Name of offender] will commence his/her placement at [] on [date].
15. His/Her hours of attendance will be [].
16. His/Her supervisor will be [].
17. His/Her main duties will be [], and he/she will receive appropriate training before undertaking these tasks.
18. No special clothing/equipment will be required / the following special clothing/equipment will be required. [Identify whether special clothing/equipment will be provided by the placement organisation, the establishment or the offender].

19. In the event of a dispute about the terms of this Memorandum of Understanding, any resolution or variation of the terms must involve all those who are party to it.
20. The placement defined by this Memorandum of Understanding may be terminated at any time by anyone who is a party to it.
21. For the avoidance of doubt, nothing in this Memorandum of Understanding shall create or shall be deemed to create a contract of service, a contract of services or a partnership between any of the parties hereto, nor any rights or obligations that are legally enforceable.

CONTACT POINTS

22. For the Establishment:

[Name]
[Position/Role]
[Telephone number]
[e-mail address]

23. For the Employer:

[Name]
[Position/Role]
[Telephone number]
[e-mail address]

SIGNATORIES TO THE AGREEMENT

24. For the Establishment:

[Signature]
[Name]
[Position/Role]
[Date]

25. For the Employer:

[Signature]
[Name]
[Position/Role]
[Date]

26. Offender:

[Signature]
[Name]
[Date]

Annex D

Bank Account Details Pro-forma

(To be completed by the prisoner)

Name:
Prison Number:
Name of Bank Account:
Account Number:
Sort code Number:.....
Roll Number (Building Society only):

Please hand this proforma to: [prison to complete]

Example of Monthly Statement

Name:				
Prison Number:				
Prison Address:				
	Amount		Amount	Bal/YT
Payment in	t	Amount levied	t	D
Net Monthly/Weekly Pay		Victim Support		
from employer*	xxxxx	/Crime Prevention*	xxxxx	xxxxx
		Dependants	0	0
		Consolidated Fund	0	0
		Savings	0	0
Payments in	0	Levy taken for		
		Month ending xxxxx	0	
		Net pay after levy	xxxxxx	
		taken	x	
*payslip from employer will show net amount transferred in		*100% total amount to victim support or crime prevention fund		

If you have any queries with this pay statement please speak to a member of staff at the prison who will contact Shared Services on your behalf

Annex F

**Ministry of
JUSTICE**National Offender
Management Service[Name]
[Prison Address]

[Name & Address of Employer]

[Insert date]

Dear [Employers Name]

You may be aware that the then Government set out its commitment to implementing the Prisoners' Earnings Act 1996. The legislation and associated Rules were brought into force on 26 September 2011.

The Prisoners' Earnings Act allows the prison Governor to take a deduction of up to (and including) 40% from an offender's weekly/monthly earnings over £20, after you (the employer) have made the usual deductions for tax, national insurance and court ordered and child support payments, where applicable. The money raised under the PEA will go to voluntary organisations concerned with victim support or crime prevention or both as may be prescribed, who will use the funds for reparative purposes.

You are requested not to pay wages or salary direct to the prisoners named below. Instead, we ask that you make the usual deductions for tax, NI etc. referred to above, and then pay the balance to NOMS Bank Account. To ensure delays in payment are kept to a minimum we request that you use the BACS payment system and the relevant account details are below.

Name of Prisoner/s:

Bank Name:	Natwest
Account Number:	10002383
Sort code:	60-70-80
Account Name:	NOMS with National Probation

In exceptional circumstances, you can make payments either by cheque or cash into any Natwest branch by quoting the bank account details above.

Please do not change these payment details for prisoners unless specifically requested by the prison. If the prisoner is scheduled for release the prison will notify you direct if the bank account details require amendment.

To avoid delays in processing payments, it is important that you quote the prisoners identifiable reference on your payment description:

PEA/Prisoner number/Establishment number/Prisoner name

For example:

'PEA/123450/010/AN OTHER'. However, if this reference is too long, please ensure that at least the prisoner's name, number and prison establishment are quoted.

This reference will ensure there is no delay in identifying employer receipts.

Please forward the relevant prisoner details and payment information to the prison.

The PEA does not affect the prisoners' protection under the NOMS Pay policy as set out in paragraphs 2.7.3 and 2.7.4 of the PSO 4460¹ about the National Minimum Wage, which relates to gross pay.

Shared Services will administer the process of calculating the amount of the levy, making the necessary deductions and paying the balance to the prisoner. You will continue to provide the prisoner with their payslip setting out gross pay and the deductions you have made. We will provide the prisoner with details of the amounts levied under the PEA monthly. Prisoners working out will have to arrange their own external bank accounts, which their prison will help them to do.

The operation of the levy ends at the point the prisoner is released from prison. If they continue to work for you, you can then pay them in full in the normal way.

Prisoners have been informed and are aware of the process.

Yours sincerely,

¹ PSO 4460 Prisoners' Pay.

Paragraph 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).

Paragraph 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.

PEA 001 FORM

[The PEA 001 Form can be found on the NOMS intranet](#)

Ministry of JUSTICE
National Offender Management Service

Prisoner Earnings Information PEA001
V01.4

This form must be completed by Establishments to inform Shared Services of any **new** Prisoners that are earning wages from external employment or any **amendments** to or **exiting** Prisoners already administered by Shared Services as part of the Prisoner Earnings scheme.

Once you have selected the "Submission Type" please complete all fields required as any detail not provided could delay wage payments to Prisoners. Form fields highlighted in yellow are mandatory fields, fields in white are optional and those highlighted grey are not required.

If you need any help in completing this form please firstly review the PEA Form Guidance by selecting the "Guidance" button. If you are still having issues completing the form contact Shared Services on 0845 0103502 (VPN 7190 3502).

Once you have completed the form, please submit the form to Shared Services via email using the "EMAIL" button at the bottom of the form.

NOMS will process this personal data in line with its responsibilities under the Data Protection Act 1998. Guidance

Submission Type	
Type (Select)	
Prisoner Details	
Prisoner Surname	
Prisoner Forename	
Prisoner Number	
Prisoner Release Date	
Establishment (Select)	
Prisoner Account Details - Payments	
Bank Name	

