

## Work & Pay in prison

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### ***Can I be forced to work in prison?***

Rule 31 of the Prison Rules 1999 states that a convicted prisoner shall be required to do “useful work” for not more than 10 hours a day, and arrangements shall be made to allow prisoners to work, where possible, outside the cells and in association with one another.

Article 4 of the European Convention on Human Rights prohibits slavery and forced labour is specifically excluded from applying to work in prison.

Unconvicted prisoners do not have to work but can choose to work if they want to. Their rates of pay will be the same as a convicted prisoner.

### ***What type of work can I be asked to do?***

The vast majority of working prisoners are employed in support roles within the prison itself: washing dishes; doing laundry, delivering mail and meals and cleaning duties. Some prisons offer other types of work and this is usually dependent on the security category of the prison and the prisoner’s own skills.

Work is graded by the type of labour, with No 1 being heavy, No 2 being medium and No 3 being light. No prisoner should be required to do work of a heavier type than their labour grade.

It is a disciplinary offence for convicted prisoners to refuse to work or to not work properly. However, prisons must make ‘reasonable adjustments’ for prisoners with disabilities recognised under the Equality Act 2010 and should only ask prisoners to do work which is appropriate for their age and state of health.

### ***Are there any exceptions?***

Prisoners who are ill may be completely excused from work by the medical officer or written off work for a stated period.

The Prison Rules state that religious prisoners of any faith are not required to do any unnecessary work on their days of religious observance. Prisoners are also not expected to work with items that are opposed to their religious faith.

### ***What are the rates of pay?***

The rates of prison pay have not been increased since 2002 and are set out in Prison Service Order 4460. Paragraph 13.9.2 of the HMPPS Finance Manual confirms that earnings must be paid in line with PSO 4460. The minimum weekly rates of pay are as follows:

- Unemployed – £2.50;
- Employed – £4.00;
- Short-term sick (sick for up to 4 weeks) – £2.50;
- Long-term sick (sick for more than 4 weeks) – £3.25;
- Retired/maternity leave/full-time childcare – £3.25;
- Outside hospital allowance - £4.35 (60p a day).

Higher rates of pay are available under the Incentives Scheme.

Paragraph 13.9.2 of the HMPPS Finance Manual sets out that The Earnings Budget Holder is responsible for monitoring and management of the earnings system.

PSO 4460 confirms that the rates of pay in prison is a devolved responsibility. It is for governors in each prison to set the rates of pay for their particular

establishment and these should reflect regime priorities.

Under PSO 4460, Governors and Directors of contracted-out prisons must have a local pay structure which, amongst other things, is fair, open, balanced and affordable.

Furthermore, PSO 4460 sets out that:

*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.*

#### ***Are my earnings taxed?***

The Prisoners' Earnings Act 1996 was implemented in September 2011. The act allows the government to make deductions from the earnings of prisoners who receive over £20 a week. However, as the vast majority of prisoners in England and Wales only earn between £8 and £10 a week, most are unaffected by this legislation. You can find more detail on this in PSI 76/2011.

#### ***Can I work for an outside employer whilst in prison?***

Prisoners in Category D prisons may be allowed to undertake work placements in the community. Certain employers offer special schemes to prisoners nearing their release date to help them re-integrate into the community and improve their skills. If you are a Category D prisoner and you want to work in the community, you should find out what specific schemes may be available at your prison.

#### ***What can I do if I get sacked from my job?***

You are entitled to be provided with clear written reasons why you have been dismissed from your employment. You are also entitled to appeal the dismissal. Summary dismissal (that is, dismissal on the spot with no prior warnings) is only warranted for very serious behaviour such as violence or theft. For less serious behaviour such as poor performance, lateness or poor attendance, you should first be given a formal warning and an opportunity to improve. Complaints should be made internally where these procedures have not been followed in the first instance.

#### ***Can I claim compensation for lost wages if I am unfairly dismissed from my job?***

In some circumstances, prisoners have brought successful claims against prisons where they were unfairly dismissed from their job and lost the opportunity to earn wages as a result. For example, where a prisoner has been suspended from work due to an adjudication which is subsequently overturned on appeal. However, such cases are rare, the most common remedy in this circumstance is getting your job back.

Prisoners working in the prison are not classed as employees and therefore exempt from the provisions of the Employment Rights Act and Working Time Regulations.

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