

Association of Financial Mutuals

Employment Taxes Hot Topics: June 2024

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Payrolling of benefits

Current position

Forms P11D/P11D(b)

Unless an employer has a payrolling arrangement agreed with HMRC, the taxable value of benefits and expenses provided to employees must be reported via forms P11D and P11D(b) by 6 July following the end of the current year.

- ▶ Employees pays income tax through self-assessment or via an adjustment to the PAYE tax code
- ▶ Employer pays relevant Class 1A NIC by 19 July following the end of the tax year, or 22 July for online payments.

Payrolling Arrangement

A payrolling agreement for benefits must be agreed with HMRC before the start of the current tax year (for tax year 2024/25 must have been applied for by 5 April 2024), benefits which cannot be payrolled and must be reported on forms P11D:

- ▶ Beneficial Loans (interest charged at or below official rate of interest)
- ▶ Accommodation.



Payrolling of benefits

Mandatory requirement from April 2026



What is changing from April 2026

- ▶ 16 January 2024 guidance issued by HMRC, mandatory requirement to payroll benefits-in-kind provided to employees
- ▶ Guidance on payrolling accommodation and beneficial loans benefits is expected in due course from HMRC as legislation change may be needed
- ▶ Benefits-in-kind will be payrolled in real time ('RTI'), monthly, or weekly - what are the potential implications for an employer to consider?

Consider	Impact
Joiners and leavers	Apportionment of benefit for RTI
Timing Differences	Two sets of benefits taxed in one tax year
PAYE Tax Codes	BIK restrictions updated on payroll systems
Benefits Data	How will this be collected to ensure payroll reporting deadlines are not missed?
Variable Pay Periods	Do current payroll processes make it easy to calculate payments to feed into payroll for RTI?
Internationally mobile employees	How will benefits be reported if a modified payroll is not operated?
Payroll process	Who will be responsible for sourcing and collating benefits data and ensuring taxable values are checked and correct monthly?

Payrolling of benefits

Mandatory requirement from April 2026



Ensure that data collection and payroll systems are ready for payrolling benefits.



Two years to plan, but allow time to get systems in place, to 'test' the systems while P11Ds can still be filed up to 5 April 2026.



Ensure systems in place or support for the calculation of benefits in each pay period.



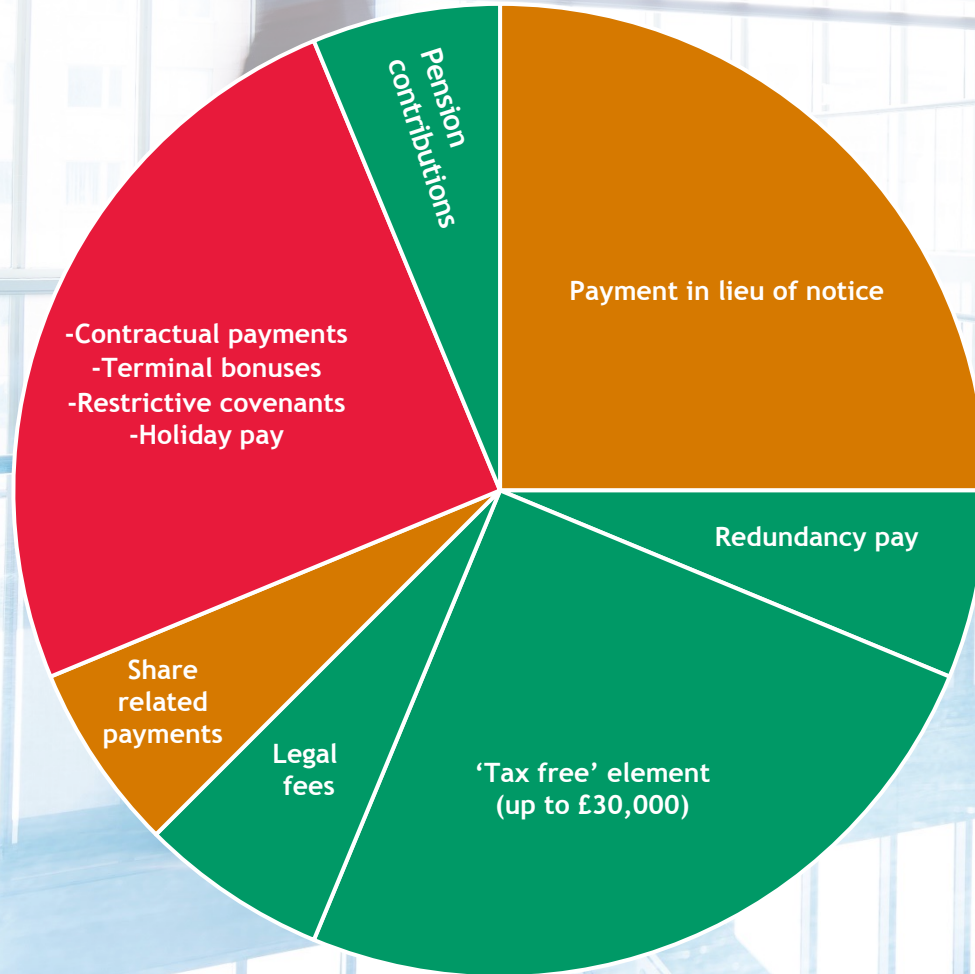
Increased risk of penalties if get it wrong - don't underestimate how complex the changes are, how many key staff will need to be involved, and how long to get systems in place.



Communicate the impact of the changes to employees to allow for planning on impact on net pay.



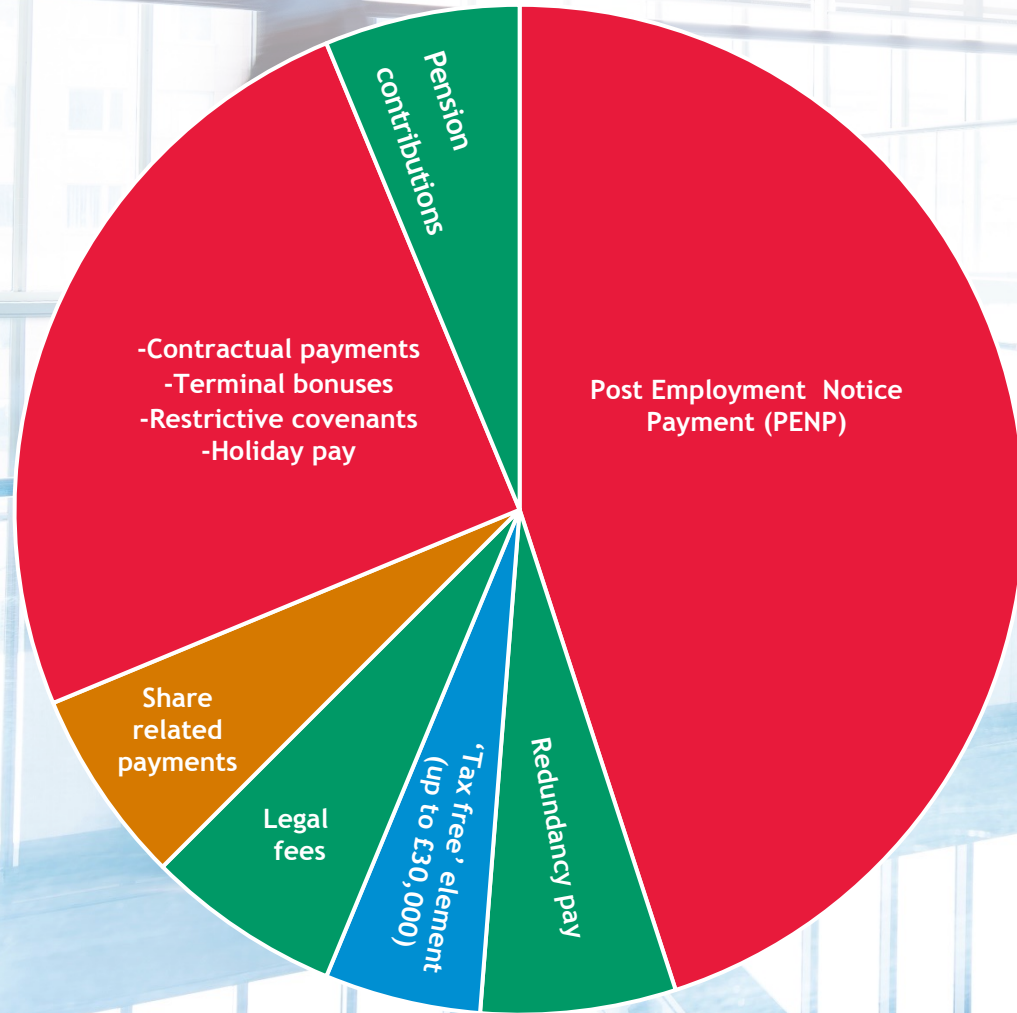
Termination payments: a common understanding







Legend:

- Liable to PAYE/NICs
- Potentially liable to Tax/NICs
- Not liable to PAYE/NICs

Termination payments: the reality



-  **Liable to PAYE/NICs**
-  **Potentially liable to Tax/NICs**
-  **Not liable to PAYE/NICs**
-  **Tax / NIC free if usable**

Two mischiefs of the PENP calculation

- ▶ Arises from the interaction of the PENP rules with arrangements whereby salary of some part of the termination package is given up (typically) for additional pension contributions
 - ▶ PENP is calculated by reference to basis pay before any salary is sacrificed
 - ▶ swapping some or all of a taxable payment in lieu of notice doesn't circumvent the rules.
 - ▶ [Salary sacrifice and termination payments - avoiding the tax traps - Benefits Expert \(benefits-expert.com\)](#)
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Working from home - travel to the office - overview

Legislation determines whether travel costs from home to the office qualify as a business journey

- Travel and subsistence legislation s.337 ITEPA 2003
- Must be 'wholly, exclusively and necessarily in the performance of duties'

Employees can claim a tax deduction from their employment income for the cost of the business journey plus associated subsistence/accommodation

- Costs/expenses should also be exempt from employer reporting, provided the conditions are met

In broad terms, business travel in the performance of duties is:

- Travel (for work purposes) to a temporary workplace; or
- Travel (for work purposes) between two permanent workplaces.

The legislation specifies that anything which is 'ordinary commuting' is not a business journey

The legislation is supplemented by case law and HMRC guidance in publications/internal manuals

Limited additional exemption for travel only - non-domiciled/non-resident individuals

Working from home - travel to the office - is there a permanent workplace?

For travel costs to be tax deductible, either:

- the office location needs to be a temporary workplace, or
- home is a permanent work place (for tax purposes)

Is the office a temporary workplace?

- Is it a permanent workplace - i.e. somewhere the employee attends regularly or where on-going duties are performed to a significant extent
- Consider if on-going duties are of limited duration in relation to on-going employment ('24 month rule')
- What work is the employee undertaking in the office compared to elsewhere - part of usual on-going duties?

Is home a permanent workplace?

- Needs to be an objective requirement of the job that work is performed there, i.e. no element of personal choice on the part of the employee
- HMRC's starting point is that home is a matter of personal choice
- Even when the employer requires work to be performed at home, if that is on a part time basis, then HMRC consider that home is only a permanent workplace for tax purposes on the days which meet that requirement.

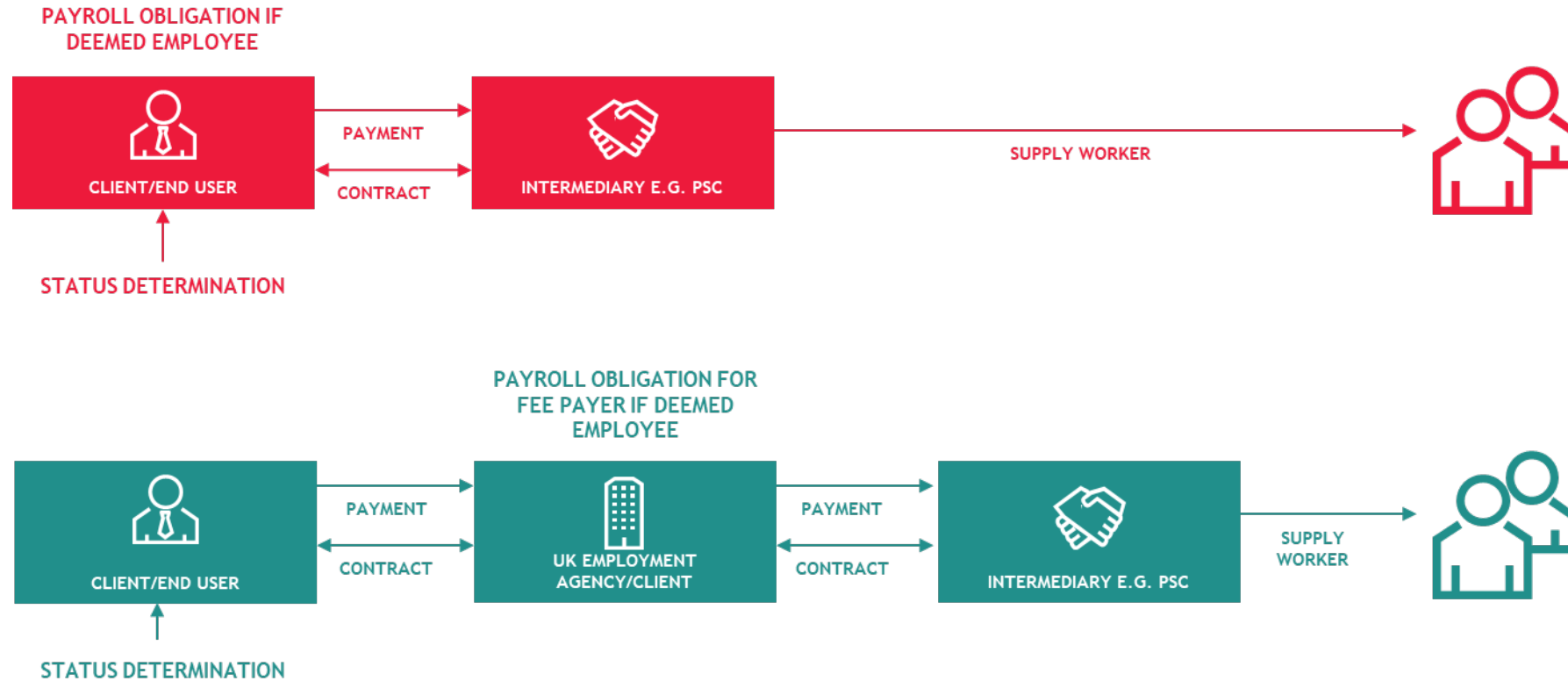
The substance of the arrangements is relevant, not just the contractual terms

HMRC current views on working from home

- ▶ Updated guidance issued April '24
 - ▶ [Ordinary commuting and private travel \(490: Chapter 3\) - GOV.UK \(www.gov.uk\)](#)
 - ▶ No movement in HMRC viewpoint: examples focus on personal choice v objective requirement v Hybrid working
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“IR35” obligations for the end user: a quick recap!

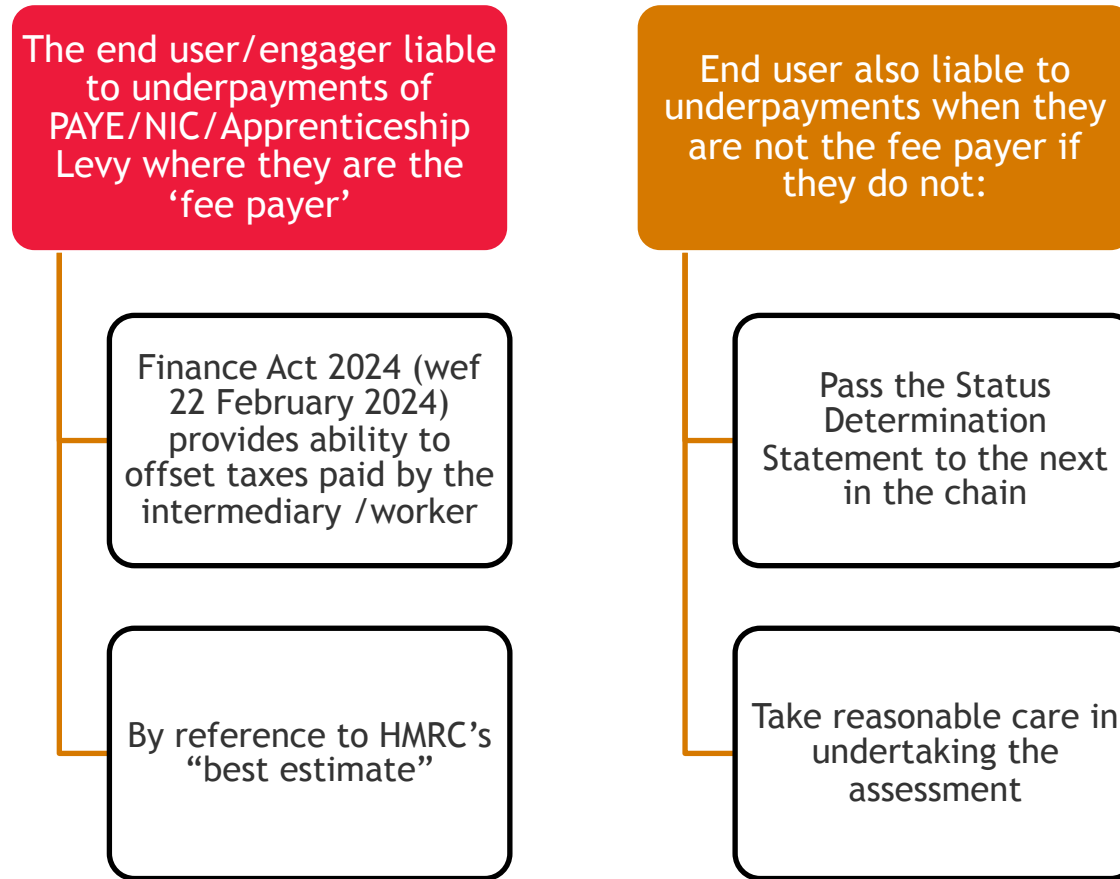
Off payroll labour: - intermediaries / ‘off-payroll working’ engager obligations



- End user must assess status and pass the Status Determination Statement to next in chain, plus worker
- End user must have process to deal with disputes, and respond within 45 days

“IR35” risks

Off payroll labour - intermediaries / ‘off-payroll working’ engager risks



HMRC activity around off payroll working

- ▶ Specific questions as part of business risk review process
 - ▶ New IR35 guidance issued November 2023 covers HMRC expectations
 - Training
 - Record keeping
 - New engagements
 - Identifying your contractor population
 - Internal audit
-

Workplace evolution

Where are your workers working from?

[Workplace Evolution webinar series - BDO](#)

Employment tax

Questions



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