



## Increasing compliance with the off-payroll working rules ('IR35') from April 2020

To increase compliance with the existing off-payroll working rules (often known as IR35), medium and large organisations in all sectors of the economy will become responsible for assessing the employment status of individuals who work for them through their own limited company. The reform does not introduce a new tax or apply to the self-employed, who are outside the scope of the existing rules.

The reform was introduced in the public sector in 2017. At Budget 2018, the Government announced that it would be introduced to other sectors from April 2020, giving organisations time to adjust and prepare. Outside the public sector, the reform will not apply to the smallest 1.5 million organisations, minimising their administrative costs.

Following a further consultation in Spring 2019, the Government has published its response to the submissions received, confirming the detailed design of the reform and the obligations on different parties. It has also published the draft legislation for the reform.

1. It is fair that two individuals working in the same way pay broadly the same income tax and National Insurance contributions (NICs), even if one of them works through a company. The off-payroll working rules were introduced in 2000 and require that individuals who work like employees, but through their own company, pay similar taxes to other employees. Those who do not comply with the rules pay significantly less income tax and NICs than an equivalent employee. The cost of non-compliance to the Exchequer will reach £1.3 billion a year by 2023-24, depriving our public services of vital funds.
2. The reform will bring all sectors in line with the public sector, where compliance has improved since the reform was introduced in 2017. HMRC estimates the public sector reform has raised £550 million in income tax and NICs in its first year.

**Employed or self-employed?** It depends on the facts of each engagement:

**Alan would be considered self-employed for this contract**



**Zainab would be considered an employee for this contract**



Alan is taken on by a manufacturing firm to design and build a new website. Alan and the firm have agreed a price for the job and when he will deliver the new website. Alan will mainly work at home, using his own equipment to complete the task. Alan is free to work for other clients but faces a contractual penalty if he doesn't deliver the website on time, to the agreed standard. This represents a significant financial risk to Alan if he fails to deliver the final product as agreed.

The manufacturing firm needs someone to maintain and update the new website. It hires Zainab to work for three days a week, eight hours each day. The firm provides Zainab with a laptop so she can work at its offices or at home with permission. She reports to the head of the IT department and must follow their style guide and format to update the website. The firm is responsible for providing and updating the software Zainab needs to do her work. If Zainab has to work longer than her contracted hours, she will be paid overtime. Zainab can work elsewhere on the days she is not working at the firm, with their agreement.

## What does the reform mean for organisations?

3. From 6 April 2020, medium and large organisations outside of the public sector will need to decide whether the rules apply to an engagement with individuals who work through their own company. All public sector organisations will continue to make determinations as now.
4. Where the rules do apply, the organisation, agency, or other third party paying the worker's company will need to deduct income tax and employee NICs and pay employer NICs.
5. The Government has listened to stakeholders and has taken into account insight from the introduction of the public sector reform alongside consultation responses. As a result:
  - Medium and large organisations will have until April 2020 to implement the changes;
  - the existing rules will continue to apply to engagements with the 1.5 million smallest organisations;
  - the legislation will make clear when non-public sector organisations, including unincorporated organisations, will be considered to be small;
  - the legislation will include provisions to ensure that all parties in the labour supply chain are aware of the organisation's decision and the reasons for that decision; and
  - the Government will introduce a statutory, **client-led status disagreement process** to allow individuals and fee-payers to challenge the organisation's determinations.
6. HMRC has already developed the Check Employment Status for Tax (CEST) service to help organisations determine whether the off-payroll working rules apply. HMRC is working with stakeholders to enhance CEST and develop new guidance before the reform comes into effect.

## Addressing key concerns

7. Since the introduction of the public sector reform, and during consultations, the Government has listened to the views of stakeholders. On the basis of their feedback, it can confirm:
  - **The reform is not retrospective.** As was the case in the public sector, HMRC will focus on ensuring businesses comply with the reform for new engagements, rather than focusing on historic cases. **HMRC will not carry out targeted campaigns** into previous years when individuals start paying employment taxes under IR35 for the first time. Organisations' decisions about whether workers are within the rules will not automatically trigger an enquiry into earlier years.
  - The reform will not stop anyone working through a company if that suits them.
  - HMRC will provide **extensive support and guidance** to help organisations implement the off-payroll working rules to ensure they apply them correctly. This will include the publication of detailed guidance for organisations and both general and targeted education packages, including webinars, workshops and one-to-one sessions with businesses in particular sectors.
  - HMRC continues to work with stakeholders to make **improvements to CEST** and wider guidance. Enhancements will be rigorously tested with stakeholders, and operational and legal experts, and will be available for use later in 2019.
  - The vast majority of decisions in the public sector are made on a case-by-case basis, and the new **client-led status disagreement process** will allow the organisation's decision to be challenged in real time.

## Next steps

8. The Government is seeking feedback from experts and stakeholders on the draft legislation for inclusion in Finance Bill 2019. HMRC will also begin roll out of its education and support package over the summer.