



Factsheet

Consultation on off-payroll working in the private sector



What are the off-payroll working rules and why is the government consulting on this?

1. The off-payroll working rules (known as IR35) were introduced in 2000. They ensure that someone working like an employee, but through a company, pays similar taxes to other employees.
2. HMRC estimates that currently only around 10% of people who should comply with the off-payroll working rules do so.
3. The cost of non-compliance in the private sector is growing and **will reach £1.2 billion a year by 2022/23**. The government is consulting on how to tackle this continuing non-compliance to protect tax receipts needed to run our public services.
4. This consultation is about increasing compliance with the existing rules – not introducing a new tax.

Who would be affected by reform to these rules?

5. The off-payroll working rules only affect people working like employees and through a company, and this is not going to change. Self-employed people working through a company will continue to be taxed as currently.
6. We estimate that **two thirds of people working through a company are genuinely self-employed and not affected by these rules**. But around one third are working like employees.

Employed or self-employed? Whether a worker is employed or self-employed for income tax purposes depends upon the facts of each engagement:

Alan would be considered as self-employed for this contract.



Alan is taken on by a manufacturing firm to design and build a new website for them. 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.

Jemima would be considered as an employee for this contract.



The manufacturing firm need someone to maintain and update the new website. They hire Jemima to work for three days' a week, eight hours each day. The firm provides Jemima with a laptop so she can work at their offices, or at home with their permission. She reports to the head of the firm's IT department, and must follow their style guide and format to update the website. The firm is responsible for providing and updating the software Jemima needs to do her work. If Jemima has to work longer than her contracted hours, she will be paid overtime.

Jemima will be able to work elsewhere on the days she is not working at the firm, with their agreement.

Does this mean you are extending the public sector reform to the private sector?

- The government has made no decisions about how to proceed and wants to consider the evidence of how the public sector reform has gone, as well as the impact on businesses and individuals who would have to implement any change.

How has the public sector reform gone?

Rumour	Fact
The public sector reform hasn't raised any tax	Evidence suggests the reform is increasing compliance – HMRC estimates that we have already raised an additional £410 million of income tax and NICs due to the reform.
The reform has really high admin burdens	Evidence suggests that some public authorities did have difficulties implementing the reform, both understanding the new rules and resolving disputes with contractors. But research also suggests the admin burden has reduced since implementation, and almost all public authorities surveyed are now confident that they are complying with the reform.
The reform has led to mass contractor walk outs	Research shows that for most public authorities, the reform has not made it harder to fill vacancies. A minority reported difficulties, but these cases had pre-existing recruitment challenges, and for some these difficulties were short-term.
The reform has led to higher costs for the public sector	Research shows that for most public authorities, the reform has not led to higher rates for contractors. A minority reported increased rates to cover reductions in take-home pay, and some contractors left if the public authority wouldn't increase the rate.
The reform has had negative effects on the labour market and wider economy	Evidence doesn't support this. Independent research found that changes to public sector recruitment were due to natural fluctuations in the workforce, not the reform.
HMRC's Check Employment Status for Tax service (CEST) is biased towards employment and in many cases doesn't give an outcome at all	The CEST service gives an answer in 85% of cases. HMRC's latest figures show CEST gives a self-employed outcome around 60% of the time , and employed around 40%.
Public authorities are making blanket decisions	Evidence shows that the vast majority of public authorities made assessments on a case-by-case basis. Where a public authority had not implemented the rules correctly, HMRC has worked closely with them to ensure they reach the correct decisions on employment status.

What are you consulting on now?

- The consultation considers options to increase compliance in the private sector. We are open to different approaches to tackling non-compliance, and want to ensure we take forward a reform that is both effective and proportionate for businesses, individuals and HMRC.
- We welcome views on taking a similar approach to that taken in the public sector last year, including how the reform might need to be adapted if this approach was pursued.
- The public sector reform made the public authority responsible for deciding whether the off-payroll working rules apply. Where the rules apply, the public authority or agency if there is one is responsible for deducting the relevant taxes.
- We want to learn from our experience in the public sector and so are consulting on what steps we could take to reduce the admin burden and ease implementation, if we were to take forward similar reform in the private sector.
- We also welcome views on alternative approaches which are set out in the consultation.