

What is the current policy/legal framework?

The Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the “Conduct Regulations”) regulate employment agencies and employment businesses. This legislation is enforced by the Employment Agency Standards Inspectorate.

Umbrella companies often employ individuals on behalf of employment businesses (recruitment agencies) and provide payroll functions. The Government is aware that non-compliant umbrella companies can be used to deny employment rights and avoid payment of taxes. However, umbrella companies as payment intermediaries are not currently subject to the Conduct Regulations, unless their other activities bring them within the scope of the existing definition of an employment agency or employment business. This means that they generally do not fall within the remit of the Employment Agency Standards Inspectorate, even where the worker being paid and employed by the umbrella company is an agency worker.

Policy Intent

The Government’s aim is to ensure that people who work through an umbrella company have comparable rights and protections to their counterparts who work directly through an employment business (as currently defined).

This is an important step towards ensuring that non-compliant umbrella companies are no longer able to deny workers the employment rights they are entitled to and that umbrella workers receive clear information about their terms of employment.

How will it work

The Bill allows for the regulation of umbrella companies, and for state enforcement by the Employment Agency Standards Inspectorate (and subsequently, the Fair Work Agency). It does this by expanding the legal definition of “employment business” to include umbrella companies.

The Conduct Regulations will be amended, after consultation, to include a regulatory framework appropriate for the umbrella company sector. The new regulations will then apply to the expanded definition of employment businesses.

Key Stats

Most recent statistics indicate that there are around 700,000¹ umbrella workers, and around 500² umbrella companies in the UK.

The previous government consulted on non-compliance in the umbrella company market in 2023. The consultation found that some workers did not receive the employment rights they were entitled to while working through an umbrella company and were often unaware of who was responsible for

¹ HM Treasury. (2023) *Tackling non-compliance in the umbrella company market*. Available at: <https://www.gov.uk/government/consultations/tackling-non-compliance-in-the-umbrella-company-market> (Accessed: 11 November 2024).

² FCSA (2022) FCSA response to HM Treasury on Umbrella Sector. Available at: <https://fcsa.org.uk/wp-content/uploads/2022/03/FCSA-response-to-HM-Treasury-on-Umbrella-Sector.pdf> (Accessed: 18 February 2025)

providing their employment rights. Many reported a lack of pay-related transparency and mishandling of pay (i.e. non-transparent deduction from wages).

A survey from The Association of Independent Professionals and the Self-Employed (IPSE)³ found that 74% of umbrella company workers are dissatisfied about working via an umbrella company, and this dissatisfaction was also reflected in the 2023 consultation. The IPSE survey also found that around 70% of umbrella company workers worked through an umbrella company because of their client's insistence and 72% of respondents stated that they are not receiving the same full employment benefits as an employee.

Common questions

How are you going to regulate umbrella companies?

- The Government's Employment Rights Bill will define umbrella companies and enable them to be regulated.
- The Government will then consult on amending the Conduct Regulations to ensure they are appropriate for application to umbrella companies and address the main harms identified in this sector (for example, lack of pay transparency and difficulty in enforcing employment rights and obligations).
- The Government has not yet made any specific decisions on the detail of amendments to these regulations: this will be subject to a detailed consultation.

Is this ultimately going to make it more expensive for hirers to engage people through employment agencies?

- The Government does not believe that regulating umbrella companies will be unduly costly for businesses.
- The benefit for employment businesses, and ultimately for their clients, is in dealing with the non-compliant practices that would otherwise undercut competitors. This is why the recruitment sector called for the regulation of umbrella companies during the last administration.
- In conjunction with changes announced in the 2024 Autumn Budget, businesses will also benefit through reducing the risk of incorrect tax classification, thus avoiding potential wrongdoing.
- The benefits to workers include getting the right pay, transparency of employment rights and knowing who is responsible for providing them.

³ IPSE, no date, Umbrella Company Market Attitudes and Concerns, Available at: <https://www.ipse.co.uk/campaigns/ir35/umbrella-company-market-attitudes-and-concerns> (Accessed: 15 November 2024).