

Amendments tabled to Finance Bill to “curb or kill” umbrella companies



Amendments have been [tabled to the Finance Bill](#) by David Davis MP and supported by Sir Iain Duncan Smith MP and Andrew Rosindell MP, to address and stop the malpractice that is rife amongst unregulated umbrella companies. The amendments come following a [Loan Charge APPG Inquiry into 'How Contracting Should Work'](#) with a powerful report published in April 2021 that laid bare some of the unscrupulous practices. Dave Chaplin, CEO of ContractorCalculator, provided evidence to the Inquiry and then following its publication, was asked, alongside other experts, to propose solutions, including ideas on how the Finance Bill could be amended.

These amendments come in the wake of [widespread reporting across the mainstream press](#) calling for umbrella regulation, in particular in reaction to the File on 4 programme relating to “Mini Umbrella Companies” that it is estimated costs the Treasury £1 billion per year in lost tax revenue.

As Chaplin [discovered and reported in Oct 2020](#), the original changes in Finance Act 2020 closed the door entirely on umbrella companies, and caused some further issues in the supply chain relating to agencies and firms providing secondees, which would have unnecessarily become “intermediaries.”

One year to "Curb or kill" the umbrella market

Both amendments solve the agency and secondee issues and then either close the door completely shut again in April 2022, or only allow umbrellas that operate within the law to operate – otherwise the legislation comes into play, and the agency picks up the missing tax due to their malpractice. As Chaplin says "These amendments give the Government a year to either curb or kill the unregulated umbrella market."

Both amendments contain sunset clauses, to ensure the market has until 6 April 2022 to prepare for the changes, and also to give the Government a year to decide how it plans to either regulate or ban the use of umbrellas.

In the event that the second amendment is voted in, but the Government continues to procrastinate on longstanding calls to regulate the industry then umbrella companies will no longer a viable option in their current form. They would need to regear and provide their services to agencies in a payment bureau type manner instead.

What the amendments seek to do

The intent of the amendments are to:

1. Stop overnight aggressive tax avoidance schemes introduced and encouraged by some unscrupulous agencies.
2. Stop overnight the exploitation of contractors forced into schemes which adopt malpractice to “skim” monies from contractors.

3. Stop overnight the kickbacks being used, which encourage malpractice.
4. Make agencies and clients liable for any malpractice, thereby removing their incentive to encourage it.

£4.5bn estimated to be lost through unpaid taxes and monies withheld from contractors

Chaplin says: "It's an unregulated industry, and non-compliance is reportedly rife and ranges from difficult to spot aggressive tax avoidance schemes to self-proclaimed "compliant" firms who skim monies from contractors' wages by leveraging a lack of transparency and ignorance on the part of the worker. Moreover, it is estimated that around £4.5bn a year is lost through unpaid taxes and monies withheld from the Treasury and contractors.

"The worse the level of malpractice, the greater the rewards for the mischief, and the greater the kickbacks for agencies, all helping to promote a self-fulfilling downward spiral, funded by pickpocketing both the Treasury and hard-working people's pay packets, without their knowledge.

"There are umbrella companies that run a vanilla compliant operation, with no reward schemes for agencies, and which treat workers fairly with reasonable charges, but they find it harder to access the market, because they lack the financial firepower to purchase space on an agencies Preferred Suppliers List – for which six-figure sums can be exchanged.

Contractors blackmailed with their own money to stay silent

"Often, where the contractor does spot malpractice and complains, the umbrella first attempts to dismiss the claim. If the worker seeks justice via legal means, then the umbrella agrees a "negotiated settlement" (a COT3 agreement) which includes a gagging clause – which is essentially blackmailing the worker with their own money to stay silent and not reveal their bad practice.

"The malpractice needs to stop and we would urge MPs to vote on the chosen amendment so that the sector moves towards one where the cowboys are driven out, allowing the compliant parts of the sector to get on with their jobs to support the contracting sector.

"Any amendment will be voted on at the **Report Stage on 24th May 2021** and could solve many of the issues and help to avoid a repeat of a disastrous Loan Charge type tax that may be required if action is not taken now."

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