

Off-Payroll guide: A timeline for agencies and hirers to achieve compliance



Contractor clients and recruitment agencies that fail to adopt an approach to Off-Payroll compliance before the end of the year risk leaving insufficient time to prepare for impending changes, threatening potential disruption to business and ongoing projects.

In its attempt to downplay the impact of the changes on affected parties, HMRC has encouraged complacency by failing to acknowledge the substantial preparatory work required by clients and recruitment agencies.

But by framing the Off-Payroll rules as an issue to be addressed in April 2020, the taxman is setting businesses up for a disastrous fallout similar to that experienced by the public sector in 2017. During this period, ill-preparation by organisations led to mass contractor walk-outs, causing damage to projects and rising costs to retain key contractors.

To avoid the same fate, private sector companies and their recruitment agencies need to act fast. Here, we explain the necessary steps to achieving compliance and why they need to be taken well in advance of April 2020.

How to prepare for the Off-Payroll rules: checklist and timeline

The Off-Payroll rules have created a substantial 'to-do' list for hiring firms and recruiters, as well as a strict schedule by which to have completed each task. Below is our suggested checklist and timeframe.

Month	Activity
Nov-19	Assess your contingent workforce for IR35
Dec-19	Evaluate impact of assessment outcomes on business; Calculate manageable contract rates for affected contractors; Decide whether to terminate contracts to fund employment costs
Jan-20	Communicate impending changes to contractors
January-February 2020	Terminate and renegotiate active contracts which overlap beyond April; Complete early renegotiations of contracts up for renewal before April
Mar-20	Ensure all outstanding invoices for previous contracts are paid; Provide an SDS to all contractors considered outside of IR35

Critically, the Off-Payroll rules will apply to payments made to contractors in April, rather than work carried out during that month. For a typical contractor who will invoice for work one month in arrears, this means that the work carried out in March will be affected by the Off-Payroll rules, making March the effective compliance deadline.

Off-Payroll compliance: November – December 2019

The first step to becoming Off-Payroll compliant is an evaluation of the contingent workforce by the hirer to identify contractors presenting an IR35 risk warranting contractual changes. Note at this stage that this is only an indicative assessment and doesn't require a comprehensive assessment of each individual's working practices.

However, it can help identify contractors whose position can be rectified, enabling them to legitimately work outside of IR35 while freeing the client and recruitment partner of expense and admin.

Having evaluated IR35 risk, firms will be well placed to conduct some financial analysis to understand the implications of the Off-Payroll rules on their budget and potentially agree new budgets based on the outcomes.

The most obvious budgetary impact of the Off-Payroll rules is the employment tax liability. This amounts to 14.3% of the contractor's rate and is paid *on top* of rates paid to contractors deemed within scope of the rules. Whereas the fee-payer is legally obliged to pay this *on top* of the contract rate, the client will be expected to fund the cost.

Now is a good time to calculate and determine the new contract rates that can be offered to affected contractors. This is a complex task. Your instinct would be to attempt to negotiate reduced rates with affected contractors to mitigate the employment tax cost. However, the likelihood is you'll encounter many contractors who disagree with their deemed status, and who will seek to negotiate an increased rate to counter their own tax hit suffered as a result of being found within IR35.

Ultimately, this may be a case of deciding upon target rates to agree with contractors, as well as the maximum rate that your company could stretch to should initial negotiations not yield a satisfactory outcome.

Alternatively, you might decide to trim the size of your workforce and use the sums saved to fund the new tax liabilities due on payments made to the remaining contractors. This will likely cause delays and potentially cancellations to projects. Unfortunately, this is the inevitable damage threatened by the Off-Payroll rules, which our guidance should enable you to effectively mitigate.

Off-Payroll compliance: January – February 2020

Having identified the contractors who pose a high IR35 risk, and reassessed your budget, you will need to terminate and renegotiate certain active contracts which overlap beyond April 2020 and complete early renegotiations of some contracts up for renewal before that date.

Where you are able to renegotiate contracts that place the contractor legitimately outside of IR35, you have little more to worry about. Where the contractor's IR35 risk is irreparable, renegotiations may be more difficult, but this is what you were prepared for before the turn of the year.

It's essential that you begin the termination phase as early as possible, as you may find that some contracts have termination notice periods to satisfy, with the standard notice period lasting four weeks.

By March, the bulk of the work will have been done, and hiring firms will be left with a checklist of three key tasks across their contingent workforce that they have completed:

1. Terminate and renegotiate high IR35-risk contracts
2. Submit and pay all invoices for previous contracts
3. Provide a Status Determination Statement (SDS) to all contractors considered outside of IR35

Remember, the Off-Payroll rules impose tax liability risk on the client where they are deemed not to have taken 'reasonable care' in assessing a contractor. A detailed SDS containing the reasoning behind a contractor's deemed status is a legislative requirement and evidence of reasonable care. Paying off all outstanding invoices is another essential risk-mitigating strategy, as the Off-Payroll rules will apply to all open engagements come April 2020.

How to achieve Off-Payroll compliance by April 2020

There is a lot of work to be done, and the list of duties summarised in this article is by no means exhaustive. Given the fact that firms need to communicate changes with their contractors by January 2020, how quickly you respond before the new year will be crucial.

The workload might seem overwhelming, but industry bodies and solutions are on hand to offer assistance and help you fast-track your Off-

Payroll compliance. The [Shield Passport Process \(SPP\)](#) is a four-stage, 12-step compliance process developed by industry experts IR35 Shield and Professional Passport.

Workshops are available, where over the course of three hours attendees can gain access to the structured approach to Off-Payroll compliance which minimises both administrative workload and risk. Recruitment agencies can arrange for a workshop to be held at a location of their choosing, before inviting their clients to attend. If you would like an SPP workshop to be held at your organisation, then please get in touch.

Meanwhile, your ability to accurately complete the more gradual tasks in a timely manner could hinge on your means of achieving compliance, with certain compliance solutions offering more comprehensive support than others.

IR35 Shield is an insurance-backed, complete compliance solution which, in addition to providing accurate IR35 status assessments, creates detailed financial and statistical analysis informed by the assessments completed. This in turn helps businesses to make prompt and well-informed business decisions where Off-Payroll compliance is concerned. For more information, visit [IR35Shield.co.uk](https://www.ir35shield.co.uk).

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