

# UK Government announces review into private sector IR35 rules

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As announced by the Chancellor in the run up to the recent General Election, the Government is launching a review into the implementation of the changes to the IR35 rules for private sector workers scheduled to be introduced on 6 April.

We have reported on the changes to the IR35 rules for workers providing services to medium- and large-sized companies in our [Tax Talks article](#). In broad summary, the changes to the rules will mean that the worker's end client (and not the worker or their personal service company) will be responsible for determining whether or not the worker would have been an employee of the client had she contracted with it directly rather than through an intermediary. Where the determination is that the worker would have been an employee, the client must make payment to the worker's intermediary entity subject to PAYE and national insurance contributions (NICs) and account for the tax (along with employer's NICs) to HMRC. Under the current rules, it is the worker's intermediary that has to account to HMRC for PAYE deductions and NICs.

The proposals have been heavily criticised, principally because of the difficulty in determining whether or not a worker should be treated as an employee or self-employed contractor (as has been highlighted in a number of recent cases on the question) and the concern that private sector end clients will take an overly conservative approach to the question and categorise many self-employed contractors as deemed employees. These concerns have been exacerbated by what is seen as the inadequacy of HMRC's online Check Employment Status for Tax (CEST) tool to deal with the subtleties of the determination.

The Government says that it will now engage with affected businesses and workers to seek to ensure a smooth and efficient implementation of the new rules, including an evaluation of the CEST tool. There is no indication that there will be significant changes to the rules or the planned date for their introduction in April.

The review will conclude by mid-February in order to allow any changes or improved assistance that is identified to be put in place for April.

Given the short period of the review and the fundamental issue of the difficulty in making the determination of deemed employee or self-employed contractor status, it seems unlikely that this review will be able to address the concerns of the body of contractors providing their services to the private sector without a radical rethink of the proposals or a delay in their implementation. Alternatively, HMRC could consider providing comfort to the private sector organisations engaging workers through intermediaries that HMRC will be sympathetic to assessments that such workers should not be treated as employees in difficult cases.

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