

The Crewing Company

Freelancer FAQ's on IR35

Frequently Asked Questions: Off-Payroll Working (OPWR) and IR35 in 2025

We've gathered a list of our most frequently asked questions regarding the off-payroll working (OPWR) rules, commonly referred to as IR35. This includes practical insights into how the legislation affects freelancers, contractors, and those working through The Crewing Company. If you have additional questions or wish to discuss IR35 further, please get in touch.

Q: What is IR35, and what has changed?

A: Originally introduced in 2000, the Intermediaries Legislation (IR35) was designed to address "disguised employment," ensuring fair tax compliance for off-payroll workers. If you work through an intermediary, such as a limited company (Personal Service Company or PSC), you must assess whether your engagement resembles employment or self-employment if your company did not exist.

In 2017, the government shifted the responsibility for IR35 determinations in the public sector to the end client. In April 2021, this was extended to medium and large private-sector businesses. In 2025, HMRC has continued to refine compliance requirements, emphasising accurate status determinations and enforcement. Employers and agencies must ensure robust, documented assessments of IR35 status.

Q: What does 'inside IR35' or 'outside IR35' mean?

A:

- **Inside IR35:** You are classified as an employee for tax purposes. PAYE tax and National Insurance (NI) must be deducted at source.
- **Outside IR35:** You operate as a genuine business, responsible for your own tax payments. You can pay yourself via salary and dividends.

Q: Who is affected by IR35 in 2025?

A: **For Freelancers:** IR35 applies to contractors working through intermediaries (e.g., PSCs). Engagements on a PAYE basis are not required to be assessed.

For Businesses: The rules apply to all medium and large businesses - small businesses are exempt. However, if part of a larger group, the parent company's size determines IR35 applicability. Overseas companies with no UK presence are also exempt.

Q: What classifies as a 'small business' in the UK?

A: Effective from 6 April 2025, the criteria for classifying a company as a small business in the UK will change. A company will be considered small if it meets at least two of the following three criteria:

- **Annual turnover:** Not more than £15 million (increased from the current £10.2 million).
- **Balance sheet total:** Not more than £7.5 million (up from £5.1 million).
- **Number of employees:** 50 or fewer (unchanged).

Under these rules, small businesses are exempt from certain responsibilities related to determining the employment status of contractors.

It's important to note that these changes take effect from 6 April 2025. However, for IR35 purposes, a company's size is assessed based on its financial year ending in the previous tax year. Therefore, the

practical implications of these threshold changes on IR35 responsibilities will commence from 6 April 2026.

Q: How is IR35 status determined?

A: Generally speaking, there are three main employment tests used to determine whether you are working in an employee-like manner.

These are based on case law and include:

1. **Substitution** – Can you send a substitute to do the work?
2. **Control** – Does the client control your workload, hours, and how you work?
3. **Mutuality of Obligation** – Is the client obligated to offer you work, and must you accept it?

Other factors include financial risk, equipment use, and business independence. HMRC prioritises actual working practices over contractual wording. Employers must demonstrate they've taken 'reasonable care' in status determinations.

If you have a run through the HMRC's assessment tool, it may give you a more practical sense of how the assessment is done. HMRC have stated that they will stand by these results if the information has been inputted accurately and in line with their guidance. The [Check Employment Status for Tax \(CEST\)](#) tool is not a mandatory tool and end hirers are required to take 'reasonable care' in any chosen assessment method or process.

Q: Can amending contract clauses make an engagement outside IR35?

A: No. A contract alone cannot determine IR35 status. Your actual working arrangements must align with what is in the contract. A substitution clause, for example, is ineffective if you are never able to use a substitute in practice.

Q: Does contract length affect my IR35 determination?

A: No. It is the nature of the engagement, not its length, that determines whether it falls inside or outside IR35.

Q: My role is listed in Appendix 1; does IR35 apply to me?

A: HMRC provides industry-specific guidance for Film, TV, and Production roles. Being listed does not automatically place you outside IR35. End clients must assess whether your engagement meets criteria outlined in **ESM4118** or **ESM0500**. If uncertain, you can apply for a **Lorimer Letter** or **LP10 Letter** and you will need to get in touch with the Creative Industries Unit at HMRC.

Contact details can be found [here](#). Do bear in mind that you will need to demonstrate that you have worked with at least 10 clients in the previous year with each engagement being less than 10 days.

Q: How will this impact bookings through The Crewing Company?

A: If an end client is subject to IR35 rules, they will issue a **Status Determination Statement (SDS)** outlining the IR35 status of a role. We will request an SDS from clients upon job listing and share it with you before you accept a booking.

Q: What is a Status Determination Statement (SDS)?

A: An SDS is a formal IR35 assessment required to be completed by the end client on an engagement-by-

engagement basis, explaining whether a role is inside or outside IR35. It must include reasons for the determination and be conducted with 'reasonable care.'

Q: What if I disagree with my SDS?

A: You can get in touch with us and we will be able to advise further. Clients must have a **dispute resolution process**. You can challenge an IR35 determination, and the client must respond within **45 days** with either a justification or a revised SDS.

Q: How are payments processed for inside IR35 engagements?

A: For inside IR35 roles, The Crewing Company (as the fee payer) will deduct **PAYE tax and NI** before payment. Payments will be processed via payroll, but you will continue receiving self-billed invoices.

Below is an illustration of how this works – it is based on a £250 daily 'Gross Pay' rate (with and without a £50 daily kit hire charge) and calculated against a standard 1257L Tax Code for the tax year 2021/22.

	With Kit Hire	Without Kit Hire
Self-Billed Invoice Total:	£1,500.00 (plus VAT of £300)	£1,250.00 (plus VAT of £250)
Deemed Direct Payment – <i>employment income only, not including expenses:</i>	£1,250.00	£1,250.00
Deductions from your wage required by law - <i>calculated only on the Deemed Direct Payment:</i>	PAYE Income tax £258.31 Employee national insurance £99.59	PAYE income tax £258.31 Employee national insurance £99.59
Any other deductions or costs from your wage:	N/A	N/A
Any fees for goods or services:	N/A	N/A
Deemed Direct Payment after deductions:	£892.10	£892.10
Payment of Self Billed Invoice:	£1,142.10 (plus VAT of £300)	£892.10 (plus VAT of £250)

IR35 does not mean you'll be taxed twice. Your accountant can advise on claiming reliefs when filing your self-assessment.

Q: Can I still claim expenses?

A: The **5% expense allowance** no longer applies for inside IR35 roles. However, business-related expenses (e.g., equipment hire, travel) can be deductible with client agreement.

Q: Will IR35 impact my rates?

A: Rates are quoted pre-tax. We will negotiate with clients to maintain freelancer rates where possible. Employers' NI contributions will be charged back to clients when feasible.

Q: Can I get a rate increase to offset deductions?

A: We will negotiate rates with clients where possible and are committed to working towards preserving existing rates for freelancers as much as possible and where feasible. Clients are likely to have different approaches to rate negotiations and varied perspectives on increasing them to offset any impact on rates.

Q: Do I receive employment benefits if inside IR35?

A: IR35 determines **tax status**, not employment rights. However, choosing agency PAYE or an umbrella company may provide statutory benefits like holiday pay, sick leave, and pension contributions.

Q: Should I continue as a limited company or switch to sole trader status?

A: IR35 is assessed per engagement, so you may be inside IR35 for some jobs and outside for others. Discuss with your accountant to determine the best structure for your work.

As an agency, we are obliged due to agency-specific onshore/offshore intermediaries legislation to process payments to sole traders via our payroll or an umbrella regardless. This does not necessarily mean you have to be a limited company to secure work through The Crewing Company but if you are a sole-trader, we will need to engage with you on a PAYE basis.

Q: How does payment work with an umbrella company?

A: If using an umbrella company, they act as the fee-payer. You submit timesheets to them, they invoice us, and we pay the umbrella company, who processes your payment via PAYE.

An umbrella can provide you with the benefits of having continuous employment (for example, with mortgages, loans etc.) and the flexibility of contracting if you tend to move from assignment to assignment and agency to agency. Additional perks and offerings will vary by umbrella company.

If you would like some suggestions for FCSA-accredited umbrella companies on our preferred supplier list, please get in touch with a member of the team or you can refer to the [FCSA's Directory of Members](#).

Q: Can HMRC investigate my past tax affairs?

A: HMRC reserves the right to investigate, but IR35 reforms do not apply retrospectively. Compliance is key to avoiding scrutiny.

For further assistance, contact: **Laura Davis** – Managing Director

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Quick Recap of 2025 IR35 Compliance:

- Medium/large clients assess IR35 status and issue SDS
- Small private businesses remain exempt
- Fee-payers deduct tax for inside IR35 engagements
- Employers must ensure reasonable care is taken in assessments
- Dispute resolution process in place for status challenges

Useful Links:

- [HMRC contractor factsheet](#)
 - HMRC webinar for Contractors, [various upcoming dates](#) or [past recording](#) also available on website
 - HMRC [CEST Tool](#)
 - [ScreenSkills Webinar](#) on IR35 Changes
 - [Appendix 1](#)
 - [BECTU guide](#)
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Get in touch

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