



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

22 July 2019

Dear Colleague,

Increasing compliance with the off-payroll working rules ('IR35') from April 2020

I am writing to let you know that the Government has published its response to the latest consultation on the reform to the off-payroll working rules (commonly known as IR35), alongside draft legislation for Finance Bill 2019. Many colleagues have received representations on this issue and so this is to update you on the Government's plans and to outline the broader rationale for the reform.

The off-payroll working rules have been in place for nearly 20 years. They are designed to ensure that individuals working like employees, but through their own limited company, pay broadly the same tax and National Insurance contributions (NICs) as those who are employed directly. It is fair that two people working in a similar way pay broadly the same tax and NICs, even if one of them works through a company. The rules do not apply to the self-employed.

Currently, individuals outside the public sector who work through their own company are responsible for determining whether the off-payroll working rules apply and for paying the tax and NICs due. However, many of these individuals cannot, or do not, correctly operate the rules, leading to widespread non-compliance. HMRC estimates that nine out of ten individuals in this position are not compliant, costing the Exchequer hundreds of millions of pounds each year.

From April 2017, the Government reformed the way the rules operate in the public sector. Public sector bodies are now responsible for determining whether the rules apply, and for ensuring that they and the individuals who work for them pay the right tax. HMRC analysis of income tax and NICs receipts shows this has been successful in improving compliance, with an estimated additional £550 million being raised over the first 12 months, money now available to be spent on public services. Independent research has also shown that this change has so far been achieved without disrupting public services or reducing market flexibility.

Though the rules are now operating effectively in the public sector, non-compliance is growing elsewhere. That is why at Autumn Budget 2018 the Government announced it would extend the reform to medium and large businesses. Having listened to stakeholders, the Government decided not to apply the reform to the smallest 1.5 million organisations. It will take effect from April 2020 to give organisations time to prepare. This means that from April 2020, where an individual is engaged through their own company and working for a medium or large-sized organisation in the non-public sector, the organisation rather than the individual will be responsible for determining whether the off-payroll working rules apply and, where appropriate, for deducting the right tax and NICs.

There have been claims that these changes will result in many organisations determining that all contractors who work for them will fall within the rules, regardless of their circumstances (often referred to as a 'blanket determination'). However, the evidence so far suggests that decisions in the public sector are assessed individually, and no evidence was found that supported the claims made. In many contexts, applying a decision to a group of off-payroll workers with the same role, working practices and contractual conditions may be entirely appropriate. However, several stakeholders remained concerned about this possibility, and the Government believes it is important to listen to these concerns and look to address them in a proportionate way. For this reason, the Government will introduce a legal requirement for clients to maintain a status disagreement process to ensure workers can raise concerns directly and in real time, and can expect the same treatment regardless of which client they engage with.

Some contractors are concerned that being found to be within the scope of the off-payroll working rules could lead to HMRC looking into their affairs for earlier years. The Government's primary aim is to address non-compliance going forward. For this reason, HMRC's focus will be on supporting organisations to apply the rules correctly, not on enquiring into historical cases. HMRC will not carry out targeted campaigns into earlier years, and organisations' status determinations under the reformed rules alone will not trigger an enquiry into pre-April 2020 years.

#### What HMRC are doing next

HMRC will continue to work with organisations ahead of April 2020 to ensure they have the help and support they need to implement the reforms effectively. In April this year, HMRC published a list of actions that businesses can take to get ready, and HMRC are also providing organisations with education, guidance and support to make sure they have the tools to make the right determinations. Online guidance will be available from summer 2019, and HMRC will be conducting a series of face to face events, webinars, workshops and targeted meetings.

HMRC are also making enhancements to the Check Employment Status for Tax (CEST) digital service, which will be available before the end of 2019. These enhancements include adding further questions to cover a wider range of working practices. CEST is also being updated to improve clarity and accessibility, with improved guidance available to help customers use the service.

The Government has produced a factsheet, enclosed, which provides further information on the reform and covers some of the points your constituents may raise with you. While there are some misinformed claims made about the reform, I fully appreciate that your constituents may raise legitimate concerns with you. HMRC will be providing extensive support and guidance over the coming months, and I would be very happy to discuss the reform and any points of concern with you in more detail.

A handwritten signature in black ink, appearing to read 'Jesse'.

Jesse Norman MP