

## Mazars – Written evidence (OPR0035)

We welcome the opportunity to contribute to the House of Lords Finance Bill Sub-committee follow-up inquiry into the implementation of off-payroll working rules in the private sector.

The IR35 reforms which resulted in the extension of off-payroll working rules from the public sector to the private sector from April this year, represent one of the biggest changes to employment tax administration for decades. This change has resulted in increased costs for organisations and the need to ensure robust processes and controls are in place for identifying and recording the use of contractors, including those supplied via an agency.

As a firm we have supported numerous clients across all sectors in preparing for the 'off payroll working' changes and have reached out to them to obtain their views regarding the implementation of the new rules and how these are working in practice.

The eight questions outlined in the follow-up inquiry were used as a basis for a survey sent out to our clients for completion. In order to simplify the process and obtain as many responses as possible certain questions had drop down options and we have outlined the responses below in section 2.

Overall, our respondents demonstrated the new rules are having an impact on the way businesses engage staff, with the majority seeing increased costs. The responses also demonstrate a desire for greater uniformity in operating the rules, improved quality of the CEST tool, and greater guidance on what constitutes reasonable care in undertaking employment status reviews.

### Off-payroll working questions

**1) Has the recent extension of the off-payroll working rules to the private sector made it more difficult for your organisation to hire people with the right skills and expertise?**

Yes	No
75%	25%

**2) To what extent has its introduction contributed to job vacancies in your organisation?**

1 - No impact	2 - Moderate impact	3 - Significant impact
25%	62.5%	12.5%

**3a) How effective do you consider the CEST (Check Employment for Tax Status) tool to be and do you have confidence in its results?**

1 - Not at all effective	2 - Slightly effective	3 - Moderately effective	4 - Very effective	5 - Extremely effective
12.5%	25%	50%	12.5%	0%

**3b) If answer to question 3a is 1 or 2, what further improvements need to be made to it?**

We grouped the responses received based on the key themes and have summarised these below:

- The CEST tool needs to give a definitive answer that will stand up to an HMRC audit
- There is a call for the tool to: (i) be further developed to deal with different roles; (ii) encourage HMRC to utilise specialist adviser input in the design of the tool and; (iii) consider regulatory interactions and the degrees of importance of employment status factors across different service offerings – the overall picture often needs to be considered differently when looking at the employment status of a HGV driver to a Locum Pharmacist for example.
- As HMRC does not focus on the tool when undertaking employment status reviews and currently little reliance can be placed on its accuracy, greater guidance is needed on what represents reasonable care when undertaking status assessments.

**4) What changes has your organisation had to make to apply the off-payroll rules to contractors, in terms of systems, personnel and training?**

Similar to the above we grouped the responses received based on the key themes and have summarised these below:

- Review of processes to confirm the employment status of each agency staff member or consultant. This has meant that certain organisations are not appointing contractors if they do not agree with the status of the role, which would increase budgeted employment costs. This has meant a loss of work for some companies or higher employment costs / engagement costs in situations where the work has been fully outsourced to a contracted-out provider.
- Numerous organisations have had to develop new policies and procedures (supplier set up and onboarding for example) and then implement them, which requires line managers and colleagues to have to do more work before a hire can commence.
- Increased training of HR and Finance functions to ensure the rules are understood.
- A handful of respondents advised that they have decided to cease using contractors altogether.

**5) To what extent (if any) do you consider that compliance costs have increased as a result of the changes?**

We have summarised the responses below based on the key themes identified.

- Certain respondents noted that there has been an increase in compliance costs of up to 50% per consultant.
- Organisations that have been impacted the most by the changes have seen their staffing costs effectively doubled as a result.

- For a small number of organisations, the additional costs have not been significant.

**6a) How has HMRC supported your organisation with the implementation of the new rules?**

<b>1 - Not at all</b>	<b>2 - Very little</b>	<b>3 - Somewhat</b>	<b>4 - To a great extent</b>
50%	37.5%	12.5%	0%

**6b) Is any further or different type of assistance needed?**

We have summarised the responses below based on the key themes identified.

- Removal of the £10m revenue/50 employee threshold so that all organisations are working to the same rules.
- More support and guidance regarding the sort of challenges that could arise during an employment status review to ensure that the way the questions in the CEST tool are being answered accurately, based on the guidance made available by both HMRC and in Tax Tribunals.
- Greater consistency with HMRC's approach to employment status reviews.

**7) To what extent has the introduction of the new rules generated disputes between your organisation and contractors concerning their status?**

<b>1 - Not at all</b>	<b>2 - Very little</b>	<b>3 - Somewhat</b>	<b>4 - To a great extent</b>
25%	25%	37.5%	12.5%

**8) How successfully have the disputes outlined above been resolved?**

<b>1 - Not very successful</b>	<b>2 - Moderately successful</b>	<b>3 - Extremely successful</b>
12.5%	62.5%	25%

**9) What behavioural effects have resulted from the introduction of the new rules in terms of the arrangements adopted in hiring contractors?**

We have summarised the responses below based on the key themes identified.

- Certain respondents stated that the process is a lot more rigid now which makes it easy to follow.
- Contractors renegotiating day rates to off-set the income tax and NIC that needs to be applied if they are deemed to fall within IR35.
- Reluctance to hire contractors and a big increase in the outsourcing of certain functions as a result.

- Certain respondents have stated that it is a lot more difficult to get contractors on board. Where extra staff are required at short notice (where full employment terms are not justified), it is not practically possible to undertake a full Status Determination first.
- Certain organisations have ceased using contractors as a result.

**10) The Government is proposing a new employment body with powers to enforce employment rights, including for those engaged by agencies and umbrella companies. How effective do you think such a body will be in ensuring workers, particularly the lower paid, are treated fairly?**

From the survey we carried out:

<b>1 - Not at all effective</b>	<b>2 - Slightly effective</b>	<b>3 - Moderately effective</b>	<b>4 - Very effective</b>	<b>5 - Extremely effective</b>
37.5%	0%	50%	12.5%	0%

**Other comments**

Additionally, other comments were raised for consideration, including:

- In complex supply chains, another key uncertainty remains regarding who is the 'client' and therefore legally required to apply the off payroll working rules and bear the ultimate legal and tax risks of non-compliance.
- Determining whether a supply is a fully contracted out service is a question of fact, based on actual working practices. However, in complex supply chains where multiple services may be provided under a single framework agreement, drawing the distinction can prove difficult.

The lack of clarity when determining whether services are fully contracted out is not a new issue and was foreseen long before the rules took effect.

*15 November 2021*