

April 2021

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- Understand and prepare for changes to the off-payroll working rules (IR35)

NEWSLETTER

IR35 Changes 6 April 2021

The changes to the off-payroll rules were due to come into effect on 6 April 2020. This was however delayed until 6 April 2021 because of the spread of the coronavirus (COVID-19) pandemic. The delay was to help businesses and individuals deal with the economic impact of coronavirus.

The delay to the introduction of the changes was not a cancellation but have now come into force.



Off-payroll working rules change on 6 April 2021 and are applied differently. From this date, all public authorities will be responsible for deciding the employment status of workers.

It will be the hiring managers responsibility to determine the employment status of the worker required. HM Revenue & Customs have developed a toolkit of questions which produces a Status Determination Statement for the worker you are looking to source.

The Check Employment Status for Tax tool gives you HMRC's view of a worker's employment status, based on the information you provide. It can also be used to check if changes to contractual terms or working arrangements may alter a worker's employment status.

<https://www.gov.uk/guidance/check-employment-status-for-tax>



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In most cases, CEST will provide you with a result. HMRC will stand by the result provided the information is accurate and it is used in accordance with our guidance.



Before you start

You'll need to know:

- details of the contract
- the worker's responsibilities
- who decides what work needs to be done
- who decides when, where and how the work is done
- how the worker will be paid

if the engagement includes any corporate benefits or reimbursement for expenses

CEST will provide one of six outcomes. This will depend on the route you have taken. You will be given a reason as to why CEST reached its determination.

Potential outcomes:

- Off-payroll working rules (IR35) do not apply
- Off-payroll working rules (IR35) apply
- Unable to make a determination (for whether the off-payroll working rules apply)
- Self-employed for tax purposes for this work
- Employed for tax purposes for this work
- Unable to make a determination (for employed or self-employed for tax purposes)

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Where CEST is not able to make a determination, further guidance and information will be provided.



You can contact the HMRC helpline on 0300 123 2326 .



You can download or print a copy of the result which will show the answers provided to each question, along with the reasoning in reaching that result. CEST does not keep a permanent record of any entries made and neither does it store individual results.



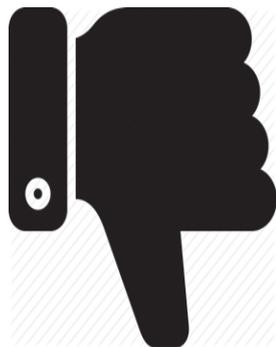
HMRC would recommend that you retain a copy.

From 6 April 2021 you must tell the worker your determination. Do this whether your determination shows that the off-payroll working rules will apply or not.





What to do if a worker or deemed employer disagrees with your determination



A worker may disagree with the employment status determination you reached.

If this happens you will need to:

- consider the reasons for disagreeing given to you by the worker
- decide whether to maintain the determination if you feel it is correct and give reasons why - or provide a new determination because you feel it was wrong
- keep a record of your determinations and the reasons for them, as well as records of representations made to you
- confirm which date your determination is valid from



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A disagreement can be raised with you until the last payment is made for the worker's services.

You must provide a response within 45 days of receiving notification that the worker disagrees with your employment status determination. During this time you should continue to apply the rules in line with your original determination.

You must introduce a process from 6 April 2021 to make sure you consider your worker's views if they disagree with your decision.

After considering a disagreement

You should either tell the:

- worker if your determination has not changed
- deemed employer and the worker if your determination has changed

Failure to respond within 45 days will result in the worker's Income Tax and National Insurance contributions becoming your responsibility.