



Agency Comms - Finance Bill Update

What is it?

The 'Onshore Employment Intermediaries: False Self-employment' legislation, featured as part of the recently released draft finance bill.

When will it come into force?

The changes will take effect from April, 2014.

Who is affected?

Anyone who is **self-employed** working through an intermediary, or businesses that deal with placing self-employed candidates either directly or via another business, such as an Umbrella Company or CIS contracting intermediary.

Who won't be affected?

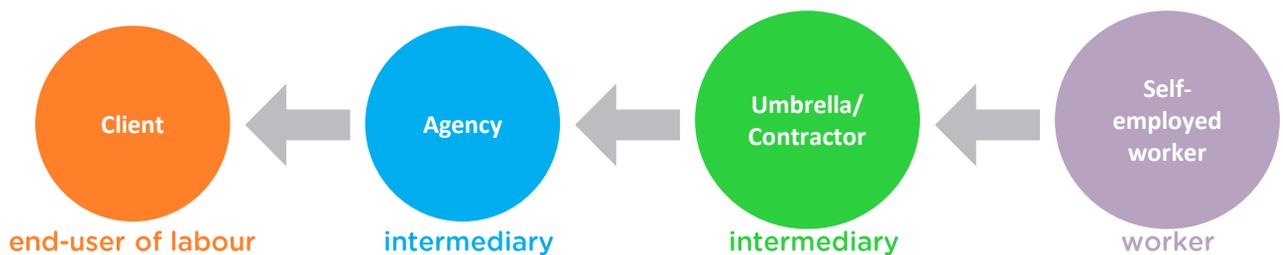
Anybody who is registered under a **PAYE scheme**, either directly with a Recruitment Agency or an employee of an **Umbrella Company** or anyone who is a Director of their **own limited company** (aka. PSC).

How does it work?

Any Agency or Umbrella Company that engages with self-employed workers will need to be able to prove that they are genuinely self-employed. If this cannot be proved then the worker will need to have full PAYE and NICs deducted and paid, as well as receiving holiday pay, statutory payments and any other employment rights.



Typical supply chain:



Why has it been introduced?

HMRC are aware that there are many workers who are being 'forced' to become self-employed, usually to reduce cost, minimise risk, and in some cases bypass some of the agency worker regulations. In the majority of cases these workers are actually falsely self-employed as they generally fail the usual self-employed tests, for example are working under the direction, supervision and control of the client.

Because there are tax breaks for the self-employed, HMRC are missing out on an estimated £520m.

What's changed?

Essentially, HMRC are bolstering existing legislation, but are making a couple of important changes.

- 1) The government are removing the need for Personal Service, so having a substitution clause in the contract will no longer be a requirement of self-employment.
- 2) If the self-employed person is working through an intermediary, such as a Recruitment Agency or an Umbrella Company, it will be assumed that they working under, or have the right of, control.
- 3) The burden of proof is now on the intermediary to prove that the worker is genuinely self-employed, where it was previously up to HMRC to prove that the worker was effectively an employee.



Impact Assessment

Anyone who is currently engaged on a self employed basis working within the following industries and job titles are considered as **High Risk** and will not be able to be engaged or paid as self-employed by Liquid Friday from **Monday the 7th of April, 2014**:

Admin & Clerical Roles / Agricultural Workers / Assembly Workers / Call Centre / Data Entry / Drivers (not providing their own vehicle) / Doctors / Education & Teaching / Government Departments / Hospitality / Industrial / Labourers & Low Skilled Construction / Supervisors, Managers & Directors / Pharmacists / Restaurant & Food Service / Social Workers / Secretaries & Assistants / Psychotherapists / Physiotherapists / Warehouse & Packaging Workers /

What Options Are There?



Agency PAYE

The worker has the right to be paid PAYE directly through the agency they find work with. The agency will need to pay Employers NI, holiday pay, statutory payments and deduct and pay PAYE tax and NICs (national insurance contributions)

Umbrella PAYE

Any worker whose assignment rate is **£8.50** or above has the option of being an umbrella employee of Liquid Friday Ltd. We'll take care of all of the PAYE, NIC's, holiday pay and pension contributions as well as taking on all of the employment risks and responsibilities. As long as the workers are expecting to accept multiple assignments, none of which are likely to last for more than two years, they may also benefit financially from getting some of their business expenses paid by us.

Proving genuine self-employment

If someone is working in a role where they have absolute authority over the 'manner' in which their services are provided they will be able to remain self-employed. This means they will be able to choose when, how and if they do the work - the only control that the end client can reasonably have is with regards to health and safety. Evidence will need to be provided by the entire supply chain that proves that the individual is not subject to control (or has the right to control).

If this can be proved, the agency will still need to submit a **quarterly return**, using HMRC's **Real Time Information** system, for every self-employed worker. This lets HMRC know that PAYE and NICs are not being deducted because it can be proved that the person is genuinely self-employed.

Personal Service Companies

If you deal with Personal Service Companies (**PSC's**), where the person providing the services is a Director of their own private limited company, these should be unaffected by the changes. Agencies will just need to comply with the existing MSC legislation, making sure not to promote or facilitate use of the model.