



Competex Pro

Contracting in the Public Sector: Limited or Umbrella?

www.competex.co.uk/pro

// The landscape of contracting in the UK's Public Sector has changed due to HMRC's 'Off-Payroll Working' rules, and, in light of these changes, working through an umbrella company is now the only viable way forward. //

Thank you for your interest in this guide. If you are an interim manager, consultant, contractor or senior independent professional, this guide is for you.

As you will already be aware, new legislation from HMRC is causing shifts in the way that these candidates are required to work. The 'Off Payroll Working' legislation, introduced in April 2017, has made limited company working much more complex for independent professionals operating in the public sector. These changes are expected to be extended to the private sector by April 2019.

In this guide, we explain in simple terms why it is no longer viable to work through a limited company, and how working through a payroll umbrella company such as Competex Pro can benefit you. Compliance is our top concern, and you will find our solutions straightforward and easy to work with. We also work hard to optimise your earning potential, as illustrated in the take-home pay calculations at the end of this guide.

Competex's intricate knowledge of the specific needs of interim managers and consultants enables us to offer a specialist service that has your particular needs and interests at its core. Competex Pro enables you to retain your independence, as our services mirror many of the features of limited company working.

We hope you find this guide useful - we always welcome feedback and if you have any further queries, please do not hesitate to get in touch.



Charles Fowler
Director
Competex Pro Ltd

What is IR35?

IR35, or the 'Intermediaries Legislation', was introduced in 2000 with the aim of preventing workers from under-paying tax and National Insurance (NI) by providing services through a limited company. IR35 states that if you are doing the sort of work for your client that would usually be done by an employee, namely if you are under the 'supervision, direction or control' of your client, the relationship is effectively one of disguised employment and you will have to pay 'employed' levels of tax and National Insurance on your income.

In the private sector, when working under IR35 through a limited company, 95% of your fee income must be paid as salary, and 5% may be used by the company to cover expenses. However, please note that the 5% allowance has now been removed for individuals working in the public sector under IR35.

More on determining your status here.

What are the 'Off-Payroll Working' rules?

Before the 'Off-Payroll Working' rules were instated in April 2017, public sector workers were responsible for reviewing their own contracts and determining their IR35 status. Now, in this sector, it is the client that is responsible for determining the IR35 status of the contract. Public sector contracts will be expected by HMRC to default to IR35 status unless there is a very good reason to do otherwise, and of course, there is always the risk that HMRC will investigate those contracts that don't.

Prior to these new rules, the responsibility for administering payroll and taxation was with the worker's limited company. The worker, as director of the limited company, operated IR35 if applicable, but otherwise could decide each month how much salary to pay, if any. Now under the new rules, the agency or client is required to deduct tax and employee's National Insurance at source, and to pay this to HMRC together with employer's National Insurance on the worker's earnings, before paying the net amount to the worker's limited company.

As a result, the worker is considered to be receiving fully taxed income into his/her company, which may then be withdrawn directly into his/her own bank account, without further deductions. However, when this taxed income is paid to the director or employee from his/her limited company, the company must account to HMRC appropriately under PAYE Real Time Information (RTI) regulations at the time of making the payment.

Working in the charity/not-for-profit sector

These rules also apply to certain organisations in the charity/not-for-profit sector, as well as to the public sector. If your client is subject to the [Freedom of Information Act \(2000\)](#), these rules will apply.

Working in the private sector

If you are working in the private sector, the recommended route is still to work through a limited company, although this would no longer be applicable if the Off Payroll Working rules are extended to the private sector, which could take place as early as April 2019.

It is possible, and recommended, to retain use of your limited company for private sector contracts while also working through Competex Pro for public sector contracts. Competex can handle your tax & compliance across both trading formats.

What are the implications for those working through a limited company?

This removes the freedom that limited company owners have enjoyed of being independent of their clients and agencies, and managing their own income, expenditure and tax affairs. The rules create complications for the worker regarding end-of-year tax returns, personal expenses, limited company expenses and negotiation of daily rates.

Tax is deducted with no account being taken of the personal allowance, unless a special effort is made to arrange with HMRC to have them issue a bespoke tax code. This means that the tax deducted will not be the correct amount for your particular circumstances. You will be required to complete a self-assessment tax return at year-end, and depending on your total income for the year, you might expect to have more tax to pay, and you should be prepared for this.

Since you will no longer receive the 5% allowance formerly available under IR35 (see above), you will have no untaxed funds available from public sector assignments out of which to pay either company expenses (such as accountancy fees) or other allowable expenses of employment (such as IT and marketing costs, and pension contributions).

Depending on the contract you have negotiated, you may also find that you are unable to claim certain bona-fide expenses relating to travel and subsistence, in which case your only recourse would be to attempt to claim such expenses in your tax return. Conversely, you may have negotiated for the client to pay the cost of commuting to work (which is no longer an allowable expense) and this may well be paid to you free of tax instead of being taxed at source, in which case this ought to be declared in your tax return.

In the public sector, the daily rate charged by the worker now has to include the employer's NI paid by the client or agency. When you are negotiating your daily rate, you should make sure that all parties fully understand what has been agreed. Is your rate inclusive or exclusive of employer's NI? Is your rate inclusive or exclusive of travel expenses? Will commuting expenses be taxed? Is your daily rate sufficient to cover the costs of running your limited company out of taxed income?

What is Competex Pro?

Competex Pro is an intermediary working to the umbrella company model that employs freelance workers that may work on numerous different assignments, at various locations, either through agencies or directly for end-clients. Competex Pro enters into an employment contract with the worker and a service contract with the client or agency.

This way of working differs from limited company working in that the freelance worker does not own shares in the umbrella company and is one of many such workers employed by the company.

Why work through Competex Pro?

Although it is still possible to work through a limited company in the public sector, it is evident that the new rules are making this way of working extremely onerous for all concerned and that there are still a number of issues as yet unresolved by HMRC.

As a reaction to the rules, many workers have decided to leave the public sector altogether, but if this is where your experience lies, leaving the public sector could result in you having fewer options for work.

The payroll umbrella company model has been in existence for some time, but is becoming a more favoured option by all concerned in light of the new changes, as it is now the most straightforward solution to the problems created by the new legislation.

Competex Pro handles the commercial, employment, taxation, and statutory risks associated with the use of freelance workers. Indeed, workers will find that they enjoy more freedom and independence from their client working through Competex Pro than they would working through a limited company.

How does Competex Pro work?

When you work through Competex Pro, you work as an employee of the company.

Your contract of employment is with Competex Pro and not with the client or agency. The terms of your contract of employment is largely in line with the terms of any other contract of employment (e.g. disciplinary, health and safety, etc), but with certain differences to take account of the unique circumstances of a payroll umbrella company.

You negotiate the terms of your contract with the client or agency on behalf of Competex Pro, but the resulting contract is between Competex Pro and the client or agency. Having negotiated your fee and any arrangement for expenses, you need to advise us so that this detail can be incorporated into our contract with the client or agency and into your salary payment structure.

At the end of the month (or other agreed period) you submit a timesheet setting out the days (or hours) worked and any expenses due, and arrange for this to be signed off by the client. The client or agency pays us, and we pay you two working days after receipt of funds from the client or agency.

What does my pay structure look like under Competex Pro?

If you work through Competex Pro, the fees and expenses received by for the work that you undertake on assignment are kept in a ring-fenced 'fund' that is personal to you and devoted entirely to supporting you as one of our 'employees'.

After deducting a small 'margin' to pay our costs (see '[Pricing](#)'), this fund is used to pay:

- Your pension contributions if applicable (paid free of tax)
- Any other expenses, if allowable by HMRC (paid free of tax)
- Employer's National Insurance on your salary
- Any other costs of employment that may arise. (e.g. Automatic Enrolment, Apprenticeship Levy)

The entire remainder of the fund is paid to you as salary, on which tax and employee's National Insurance is then deducted.

Salary

Your salary is calculated in three parts:

- Basic pay for the time worked, calculated at the national minimum wage rate. The use of national minimum wage is an expedient used by all umbrella companies which enables them to comply with all the legislation associated with flexible working. It does not affect the total amount paid to the employee.
- Holiday pay, based on the national minimum wage. As you are an employee with flexible working arrangements, Competex Pro is obliged to pay holiday pay, which may either be retained and paid to you when you are otherwise not working, or it may be 'rolled up' and paid to you month by month based on the number of days worked in the month. Although this method of payment is not particularly favoured by HMRC, Competex Pro's policy is to 'roll up' holiday pay and thus pay you the maximum funds available as early as possible.
- Bonus, which represents the entire remaining balance of all available funds.

Although calculated as described above, the basic pay and bonus are brought together as a single figure referred to as 'pay' on your payslip.

Expenses

As far as paying expenses is concerned, the expenses that may be paid free of tax and National Insurance are determined entirely by HMRC regulations. If you have negotiated for the client to pay expenses that are not allowed to be paid to you tax-free, then you do not receive them tax-free, but instead the fund available to pay salary is increased accordingly.

[More on claiming expenses here.](#)

About Competex Pro

Competex Pro is particularly suited to interim managers, consultants and senior professionals that are working for end-client organisations in the public sector or the charity/not-for-profit sector, that are governed by the 'Off-Payroll Working' rules, or who might otherwise be expected to go onto their client's payroll.

With its 20 year history working within the interim industry, Competex understands the unique offering that interims and consultants bring to the business world, and recognises their particular needs and ways of working. As a result, the Competex Pro package mirrors many of the features of limited company working.

Some of our unique features that appeal to interims are:

- Certain permissible tax planning possibilities
- The ability to claim reasonable business expenses other than those paid by the end-client
- The ability to pay pension contributions by way of salary sacrifice
- Professional indemnity and employer's liability insurance included for all clients

Some clients of Competex Pro also own and maintain a limited company for private sector assignments, and are safe in the knowledge that Competex is able to handle their limited company compliance at the same time, reducing the complications involved in end-of-year tax returns.

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About Competex Ltd

Competex Ltd is our specialist accountancy practice, assisting interim managers and other senior independents with their tax and accounting affairs, particularly those affected by the IR35 legislation.

Competex clients enjoy a unique, yet simple package, designed for clients who need to incorporate a new company or who have an existing company, and who wish to work with a specialist accountant. All our software is cloud-based and appropriate for mobile working. Our clients are based all over the UK and we operate from our offices in Reigate.

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About the Interim Hub

For all the thousands of interim manager working in the UK, working across so many different industries, there is very little information available to help them set up their business and market themselves. The Interim Hub fills that gap.

We are an online resource offering a wide range of services for people who are either leaving the security of permanent employment to set up as interim managers, or for seasoned interims wishing to access further skills and knowledge to expand their business or improve efficiency. Through the Interim Hub, new and existing interim managers can access a range of professional services, training events and free online resources, including a searchable database of some 900 agencies who place interims and consultants on assignment.

www.interim-hub.com



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