

# Is your contractor actually an employee?

## The six tests that decide

A contract that says contractor settles nothing. Authorities score six factors to decide whether to reclassify a relationship as employment, and control and integration carry the most weight. Here is how the risk works.

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A contract that says independent contractor does not settle anything. Tax and labour authorities look past the label at how the relationship actually works, and if it looks like employment they can reclassify it, then bill the hiring company for what it should have paid all along. Here is what they actually check, and where the cost lands when they decide against you.

### The six pressure points

There is no single global test, but the national ones lean on the same factors. A misclassification check scores six of them:

- Control: who decides how, when and where the work gets done. If you direct the hours and the methods, that reads as employment.
- Integration: how embedded the person is in your team and on your org chart, versus running their own operation.
- Exclusivity: whether they work only for you, or genuinely serve several clients.
- Duration and continuity: a long, unbroken, full-time engagement looks like a job; defined projects with a start and end look like contracting.
- Equipment: who supplies the laptop, the tools and the software seats.
- Payment: a fixed amount every month looks like salary; invoices against defined deliverables look like a contractor.

Control and integration carry the most weight, because almost every national test leans on them hardest. The other four tip an ambiguous case one way or the other.

### What reclassification actually costs

When a contractor is reclassified, the bill is rarely small, and in stricter jurisdictions it now sits with the hiring company, not the worker. The big line is the employer social-security contribution that was never withheld, often backdated several years with interest, plus unpaid holiday, notice and sometimes pension. In Belgium, for instance, employer social security runs about 25% of gross salary, so backdating that across two or three years is a serious number before penalties even start.

### Why their own company does not settle it

A common assumption is that the risk disappears once the contractor invoices through their own limited company, BV or SARL rather than as a sole trader. It does not. The same substance-over-form principle applies: authorities weigh how the work actually happens, not which entity sends the invoice, so a one-person company that does set hours on your equipment exclusively for you can still be looked through.

The UK is the clearest codified example. Its off-payroll working rules, known as IR35, exist precisely for people who supply their services through their own company but would be employees if engaged directly. Since 6 April 2021 the medium or large private-sector client, not the contractor, decides the status and issues a status determination statement, and the fee-payer deducts income tax and National Insurance. Only genuinely small clients are exempt, in which case the contractor company stays responsible for getting it right.

That small-client exemption is shrinking. From 6 April 2026 the thresholds that define a small client rise to 15 million pounds turnover and a 7.5 million pound balance sheet, with the 50-employee line unchanged, so a company stays small only if it stays under two of those three. More mid-sized firms now sit above the line and carry the determination, and the penalty for getting it wrong, themselves. The lesson generalises beyond the UK: route the engagement through a company if you like, but it is the working relationship, not the billing vehicle, that an inspector scores.

## **The honest out**

Sometimes the answer is that the relationship simply is employment, and no contract wording fixes someone who works set hours, on your equipment, exclusively for you. Then the clean route is to employ them properly. If they are in another country where you have no entity, an Employer of Record can be the legal employer on your behalf, which is why a high-risk result is worth pricing against opening your own entity there.

Run the six factors against a real working relationship and you get a 0 to 100 risk score, a red, amber or green read on each factor, the jurisdictions most likely to reclassify, and the specific changes that would lower the score. It is the cheap version of a question you do not want an inspector to ask first.

## **Frequently asked questions**

### **How do authorities decide if a contractor is really an employee?**

They look past the contract label at how the relationship actually works, scoring about six factors (control, integration, exclusivity and others), with control and integration weighing most. If it looks like employment they can reclassify it.

### **What does contractor misclassification cost?**

When a relationship is reclassified as employment, the hiring company is billed for the employer contributions and protections it should have paid all along. That is why a contract that says independent contractor settles nothing on its own.

### **Does hiring a contractor through their own limited company protect me?**

Not on its own. Authorities look at how the relationship actually works, not at the billing vehicle. The UK off-payroll rules (IR35) exist precisely for people who invoice through their own company but would be employees if engaged directly, and many other countries look straight through a one-person company the same way.

### **What are the 2026 IR35 thresholds?**

From 6 April 2026 the limits that define a small client (which stays exempt from the 2021 reform) rise to 15 million pounds turnover and a 7.5 million pound balance sheet, with the 50-employee line unchanged. Above that, the medium or large client, not the contractor, determines status and the fee-payer deducts tax and National Insurance.

### **Score your own working relationship**

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