

Briefing on Autumn Statement – October 2024

Here are the main points and some next steps from the Autumn Statement last week. While point 4 is the most concerning, it's also the furthest away in terms of "go live" date which is why I've added it last – but it is important so do keep reading to the end!

1. Living Wage / NMW increases confirmed

From 1st April 2025, the following NLW / NMW rates will apply:

- National Living Wage: £12.21 per hour
- NMW (18–20): £10.00 per hour
- NMW (Under 18 and apprentices): £7.55 per hour

Actions for you to take: Ensure that – where needed – pay rates are increased to comply with the new rates from 1st April onwards. If you're on fixed charge rates with clients and/or don't have the right to increase charge rates without your client's consent, start negotiating the increased charge rates with those clients well in advance of the new rates taking effect.

2. Changes to Employer NICs – direct PAYE and umbrella workers

- From 6th April 2025, employer NICs contributions will increase from 13.8% to 15%.
- The Secondary Threshold (where employers become liable to pay NICs) will reduce from £9,100 per year to £5,000 per year. The new threshold will then be frozen until 6th April 2028.

While we were expecting employer NICs to increase, the size of the reduction to the threshold is unexpected and has a huge impact on agencies, both in terms of their own employees and their temporary workers. The changes will mean your costs to supply (direct) PAYE workers will increase significantly, though umbrella company workers will be the worst affected, since the increased employer NICs will be taken out of the gross assignment rate and reduce their take-home pay. For any lower-paid umbrella workers, the change could even put them under the Living Wage / NMW threshold.

There are also changes to the Employment Allowance which will reduce the employer NICs payments of all businesses, of all sizes, by £10,500 each year, which for some smaller agencies will be welcome news.

Actions for you to take:

- Calculate the cost impact on you for your (direct) PAYE workers
- Ask your umbrella companies to calculate the impact on each of your umbrella company workers, and what the new pay rate would need to be to achieve the same take-home for the worker. In particular, both you and the umbrella need to know if the increased NICs costs will affect any worker's take-home pay to the point that they are no longer earning Living Wage / NMW.
- Start discussing uplifts in charge rates with clients in early January so you know ahead of time what the implications are going to be. If your T&Cs with clients allow for automatic increases for statutory cost changes, then you're in the best position, but that doesn't mean clients will accept the charge rate increases you'll be proposing, especially if it affects a lot of their contingent workforce!
- In particular, advocate for increases in the charge rate for any umbrella company workers. If you do get clients to approve the increased umbrella worker rates, you will almost certainly pay the cost in a different way. Affected umbrella workers might:
 - choose to move to your direct PAYE payroll which will cost you more

- terminate their assignments if they aren't given a direct PAYE option, or will certainly move to another role which pays more as soon as possible
- seek alternative umbrella options which aren't compliant to achieve the same take-home pay, and if you don't conduct sufficient due diligence on your umbrellas, then that can have a serious impact on you (particularly in the future, see Point 4 of this briefing).
- If clients refuse to increase the charge rates for some or all of your workers, make a plan for how to deal with that. This may require some difficult decisions to terminate assignments if you're likely to make a loss on direct PAYE workers going forward.
- Make sure you communicate with your workers about progress and next steps. Particularly your umbrella workers. They are going to be very worried; proactive communication is easier to manage than receiving individual phone calls multiple times a day for the next 4 months. Even bad news is better than no news.

3. Changes to Employer NICs – limited company contractors

The changes to employer NICs (covered in Point 2 above), combined with the announcement of an increase to the Lower Earnings Limit (LEL) from 6th April 2025, will mean limited company contractors / PSCs will now be forced to pay employer NICs if they want to achieve the employee NICs LEL. This is not a coincidence! However, the reduced threshold for the employer NICs will hit the PSC's profits. And with a dividend tax allowance of just £500 per year, PSCs will be paying more company costs and personal taxes than ever before. Since the introduction of the Off-Payroll / IR35 rules, and the continued erosion of the tax benefits when operating as a PSC, we are seeing more and more contractors moving away from PSCs and instead choosing to operate as sole traders. Agencies could potentially benefit from implementing processes to allow the use of sole traders. There are risks and compliance steps to follow, but nowadays every type of payroll mechanism carries risk. Something to consider for the future perhaps.

4. Agencies become responsible for umbrella company non-compliance in 2026

The new government is pressing ahead with the previous government's plan to increase umbrella company compliance by penalising agencies that use them (previous briefing is [here](#) for anyone who would like the background).

From 6th April 2026, **recruitment agencies will become liable for any tax or NICs non-compliance of any umbrella company they use**. Agencies will be legally responsible for operating PAYE on any agency worker's pay, regardless of who actually pays the worker, and it is the agency who will be liable for any shortfall. This will not mean that agencies can't use umbrella companies going forward, but if the umbrella makes the relevant calculations for PAYE on the agency's behalf, then any failure by the umbrella to properly deduct and account for the tax and NICs will become the problem of the agency, not the umbrella.

Where there is a longer supply chain with multiple agencies, the agency who is closest to the end client will hold the PAYE liability (similar to the Onshore & Offshore Intermediaries legislation). CIS intermediaries should be unaffected by the change since the agency is already the party who is required to determine whether the worker is or should be paid PAYE, based on whether they are subject to SDC (supervision, direction & control). The agency already holds primary liability in this scenario so nothing changes.

The government has released a policy paper ([here](#)) and will be releasing more detailed guidance, and draft legislation, in the coming months. However, it's clear the new law will be "strict liability": it doesn't matter how good your due diligence checks are, if PAYE is not properly deducted by the umbrella, you are liable. That's it. No amount of "trying" to ensure the umbrella is compliant will be sufficient to offset your liability.

Actions for you to take:

- Start planning your next steps now. Your main options for next steps are:
 - Start gearing up to operate PAYE in-house (if you don't offer that option right now) to reduce or remove your reliance on umbrellas
 - Continue to use some or all of your existing umbrella companies in which case you'll need to think about what additional due diligence steps you may want to implement (but remember just doing more checks won't be enough to reduce liability)
 - Continue to use umbrellas but calculate and deduct the PAYE before you make payment to the umbrella (not likely to be widely adopted)
 - Consider alternative contractor supply options where that's possible & appropriate (PSCs, sole traders etc)
- Start having meaningful conversations with your umbrella companies. How can you make sure that if you're found to have a PAYE liability you can recover it from the umbrella? Contractual indemnities won't be enough. Compliant umbrellas will want to make it easy for you to continue to use their services, so they may have ideas to offer you comfort against your new risk.
- We've heard that at least a few umbrellas are considering a PAYE insurance policy which would indemnify the agency against the umbrella's non-compliance with the PAYE rules. The devil will be in the detail of the policy wording, but all insurance policies will refuse to cover deliberate non-compliance, so an insurance policy will be useless for any umbrella who deliberately or fraudulently makes incorrect PAYE deductions & payments.
- The big umbrellas will get bigger (though size does not equal compliance!); the small umbrellas will get smaller, or disappear. And we certainly hope most of the non-compliant umbrellas will be pushed out of the market in 2026 if not before. But that creates risk in itself since umbrellas won't pay their workers before they go bust! If that happens, you'll have a lot of angry workers to manage.
- You'll need to issue new contracts with your umbrella companies to ensure there are contractual indemnities in place if any PAYE liabilities come to you, BUT this alone isn't sufficient. An indemnity is worth nothing if the umbrella company has no money to pay those liabilities. You might want to consider asking umbrella company directors to accept personal liability for debts in relation to the PAYE risk.
- If you use any umbrella companies as a PEO / outsourced payroll, as opposed to a traditional umbrella, these measures will likely still affect you. So you'll need to take most of the actions suggested here even if you're not using any "standard" umbrella services.
- If you're an MSP provider, you'll want to consider whether you'll accept 2nd tier agencies using an umbrella company, since you'll be holding primary liability under the new laws.
- If you act as a 2nd tier agency for an MSP, expect to see bans of umbrella workers take effect well before the legislation does live. If you don't offer an in-house PAYE option, you could lose workers.
- As I say in every briefing document, communication with your workers about any changes you're making to the use (or otherwise) of umbrellas is going to be key. The more you communicate and reassure, the less individual firefighting you'll need to do.
- Finally, one (very small) light at the end of the tunnel. Quite a few end clients are using umbrella companies directly, so as to have full transparency of how workers are engaged. If a client engages an umbrella directly, they will become liable for any PAYE penalties under the new laws. The new measures may therefore lead to a small increase in clients using agencies to put the agency in the position of liability instead of the client.

As always, feel free to contact me on bernie@labvolution.com if you would like any additional information or support on any of the areas covered in this update.