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# The Umbrella Reforms

## Chapter 11 - Joint & Several Liability

### New Umbrella Company Legislation Explained

#### (draft Finance Bill 2025-26)

*Rebecca Seeley Harris*

*1<sup>st</sup> Edition – 6 August 2025*

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## 1. Introduction

The draft Finance Bill was published on the 21 July 2025. It contains the new Chapter 11 Part 2 ITEPA 2003 – Umbrella Companies Joint and Several Liability.

For background to the Umbrella Company Tackling Non-Compliance in Umbrella Companies see my comprehensive independent report on the Umbrella Reforms available by emailing: [info@relegalconsulting.co.uk](mailto:info@relegalconsulting.co.uk) or available from the FCSA. This report was commissioned by the FCSA and others. This briefing follows on from that report to analyse the draft Finance Bill – Chapter 11 ITEPA 2003.

The draft legislation is open to consultation until 15 September 2025 by contacting [umbrellacompanyevidence@hmtreasury.gov.uk](mailto:umbrellacompanyevidence@hmtreasury.gov.uk)

## 2. Quick Facts

- Confirmed as **joint and several liability**
- The legislation in the **draft Finance Bill** will become **Chapter 11 Part 2 ITEPA (Income Tax (Earnings and Pensions) Act 2003 – s.61Y – 61Z1**
- This legislation only deals with **PAYE**
- **NICs** will be in the separate legislation - amending section **4A of Social Security Contributions and Benefits Act 1992**
- This is not the **Umbrella Regulations** – they will be consulted on in the Autumn.
- The Regulations will deal with the conduct of the umbrella company and will be governed by the **Fair Work Agency**.
- **VAT** would not be covered in Chapter 11 because that applies to PAYE, but, it is covered by case law under the ordinary principles of involvement in an abusive supply chain (**Kittel Principle**)
- It's **not retrospective** so the legislation applies to payments made to workers from **6 April 2026**.
- These new rules apply to the agency that has the direct contract with the end client to supply the worker (**top agency**).
- If the **MSP** is contracted to the client to provide these services, then they will become liable as the top agency would.
- Where there is no agency, this responsibility falls to the **end client**.
- Where the **agency payrolls** the worker and the worker is under a contract of employment, with **no umbrella in the chain**, the end client will be liable.
- The **definition of 'umbrella company'** is based on the worker being employed by a third person who carries on a business of supplying labour, whether or not with a view to profit.
- The worker must have **no material interest** in the umbrella company.

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- If the individual is personally providing services to another person (the client) and these conditions are met, these will qualify as **umbrella company arrangements**.
  - Each **relevant party** is, along with the umbrella company, joint and severally liable.
  - A **relevant party - 61Z** specifies that where the umbrella company does not have a contract directly with the client, the party in the supply chain that has a contract with the client will be the relevant party.
  - The client will be the relevant party where the agency is **not UK resident**, or the agency is connected to the umbrella company.
  - Where neither the client nor the top agency is UK resident, the **closest UK resident agency** to the client will be the 'relevant party'.
  - The legislation covers the '**purported**' umbrella – this is where the worker holds a material interest in the purported umbrella company and the legislation will apply to make any relevant parties joint and severally liable.
  - It is likely that the 'purported umbrella' concept is designed to prevent situation such as that in *Ducas v HMRC*.
  - Amendments to other pieces of legislation (s.44, Chapter 10 ITEPA, etc) to prevent the **fraudulent document condition** from applying where fraudulent documents are intended to constitute evidence.
  - Amendments will be made so HMRC can issue a **Reg 80 determination** to a joint and severally liable party.
  - **"Arrangements"** are defined as including any agreement, understanding, scheme transaction or series of transactions (whether or not legally enforceable).

## 2.1 Basic provisions

The legislation generally covers the following situations, where:

- an umbrella worker is provided under contract direct with the client
- the umbrella worker is provided through an agency or agencies to the end client
- the umbrella worker is provided through an MSP to an agency to the end client
- there is a worker provided through an agency to the end client
- there is a purported umbrella company
- there is a purported umbrella company where the worker has a material interest (5% of ordinary share capital.)

The joint and several liability provisions are contained in **61Y(2)** where the liability is attached to the **relevant party**. The relevant party, further defined in **61Z**, is joint and severally liable along with the umbrella company to pay **any amount** payable in relation to the **qualifying umbrella company payment (QUCP)**. This is as long as the **umbrella company arrangement conditions (UCA)** are met.

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### **Qualifying umbrella company payment**

The QUCP means a payment that is made in respect of the employment of the worker. It is not in the respect of the provision of services to a person other than the client.

### **Providing personal services**

The joint and several liability provisions in 61Y(2) will apply in the following event [61Y(1)(a) – (c)]:

- The worker personally provides services to another person who is the client,
- The worker is employed by a third person who is the umbrella company,
  - The umbrella company carries on the business of supplying labour, this is regardless of it being profit making,
  - The worker has no material interest in the company, and
- The **umbrella company arrangement conditions** are met.

## **2.2 Umbrella Company Arrangement conditions**

The UCA conditions are [61Y(4)(a)&(b)]:

**Arrangements** are construed as any agreement, understanding, scheme transaction or series of transactions (whether or not legally enforceable).

### **Client – Umbrella Company**

There is a contract between the umbrella company and the client or another person. Under that contract, the services are provided, or the umbrella company is paid. Payment can be either money or some other consideration. The end client becomes liable as the relevant party.

### **Client – Employment Business**

There is a contract between the client and the business that is supplying labour and it fits the criteria with no umbrella company in the chain, the end client becomes liable as the relevant party.

### **Client – Top Agency – Umbrella**

The top agency becomes the relevant party as a result of s.61Y(4)(c)(i) where “...there is a contract between the client and another person”.

### **Client – MSP – Agency - Umbrella**

The MSP becomes the relevant party as a result of s.61Y(4)(c)(i) where “...there is a contract between the client and another person”. This is only where the MSP is in direct contract with the end client and providing the services of supplying labour.

Where the contract is not between the umbrella company and the client, but there is a contract between the client and another person, that other person is likely to be a recruitment agency, employment business or MSP. As a consequence of that contract with another person, there is a provision of services or a payment. This is whether those contracts are direct or also as a result of a series of contracts.

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## Material interest

This is where the worker has a beneficial ownership or the ability to control, directly or indirectly, more than 5% of the ordinary share capital of the company.

However, the worker is regarded as not having a material interest in a company if that interest is to secure that the joint and several liability in 61Y(2) does not apply.

## Employed

Under 61Y(1)(b) the worker must be **employed** under a contract of employment. The definition of employed does not include the individual being treated as employed as a result of Chapters 7 to 10 of Part 2 ITEPA. This is **deemed employment by intermediaries** such as:

Chapter 7 or otherwise known as s.44 ITEPA is the treatment of workers supplied by agencies. This applies to the self-employed and applies if the manner in which the worker provides the services is subject to (or the right of) supervision, direction or control by any person.

The section does not apply if the worker is receiving employment income for providing the services.

Chapter 8 refers to the original IR35 where workers provide their services through an intermediary to small clients.

Chapter 9 refers to Managed Service Companies

Chapter 10 refers to workers who provide their services through intermediaries known as a Personal Service Company (PSC) to public authorities or medium or large private sector clients.

Section 863A ITTOIA 2005 those who are deemed employment of partners in limited liability partnerships.

## 2.3 Elective Deduction Model

The Elective Deduction Model is a contractual mechanism often used by umbrella companies and recruitment agencies. It is of interest concerning Chapter 11 because this chapter requires that the worker is employed under a contract of employment. Whereas under the EDM model, the worker is engaged under a contract for services.

Under this model:

- The agency worker signs a contract for services, identifying them as self-employed (not an employee or worker).
- The umbrella or agency operates PAYE and deducts employee NICs—treating the individual as employed *for tax purposes only*.
- The contract will often include clauses like:  
*“For tax purposes, payments to you will be treated as employment income, and*

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*PAYE will be deducted accordingly. However, this does not confer employee status under employment law.”*

This allows the umbrella company to disclaim liability for employment rights such as:

- Holiday pay (Working Time Regulations 1998)
- National Minimum Wage
- Auto-enrolment pensions
- Statutory sick pay
- Protection under the Agency Workers Regulations 2010
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At the same time, the model ensures that tax is remitted under PAYE, ostensibly complying with ITEPA 2003, s.44, which deems agency workers to be employees for tax purposes where supervision, direction, or control is present.

If the worker is engaged under an EDM, it will likely fall under Chapter 7, not Chapter 11, in which case the top agency will be liable.

### 3. Overview of the Draft Legislation

The draft provisions were included in the Finance Bill 2025-26 and introduce a new **Chapter 11 “Umbrella Companies” in Part 2 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA)**. The key sections are **61Y, 61Z, and 61Z1**, which define when joint liability arises, who is liable, and anti-avoidance measures, respectively. In effect, any time a worker provides services to a client through an umbrella company arrangement, the umbrella’s PAYE tax obligations will be shared by other parties in the contractual chain.

#### 3.1 Section 61Y: Joint Liability Trigger

This section sets out the conditions under which joint and several liability applies. In summary, if the worker is:

- employed by a third person;
- which is an entity in the business of supplying labour;
- in which the worker has no material interest; and
- the worker’s personal services are provided to an end client via that arrangement;
- then *each relevant party* in the supply chain is jointly and severally liable, along with the umbrella company, for any PAYE amounts the umbrella should pay.

In other words, if an umbrella company is involved in paying the worker, any income tax that the umbrella is required to deduct and pay over to HMRC can also be collected from other parties in the chain. The payments subject to this rule are referred to as “*qualifying umbrella company payments*”, essentially the worker’s earnings from the umbrella for work done for the end client. Section 61Y also defines an “*umbrella*

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*company*” broadly, excluding personal service companies owned by the worker (to ensure the rules target true umbrella arrangements, not a contractor’s own limited company).

Under the definition of “*employed*”, the PSC, along with s.44 self-employed worker, IR35 contractor and MSCs included as deemed employment by intermediaries in Chapters 7-10 Part 2 ITEPA 2003 are all specifically excluded from Chapter 11 (s.61Y(7))

As noted above, where there is a contract between an employment business and the end client with no umbrella in the chain, the end client will become liable.

### **3.2 Section 61Z: Definition of “Relevant Parties”**

This section identifies which other entities in the labour supply chain will be held jointly liable alongside the umbrella. The legislation is designed to target the top agency or intermediary that contracts with the end client. Specifically, if the umbrella company is engaged via any intermediary (i.e. not directly by the client), then the party which has the direct contract with the end client is deemed a “relevant party”.

In practice, this means the top agency or managed service provider (MSP) that the client hired will usually bear the liability. Importantly, if the end client directly contracts the umbrella (no agency involved), then the end client itself becomes the relevant party and thus liable. The draft also guards against scenarios where the agency is effectively out of HMRC’s reach; if the agency contracting with the client is offshore or connected to the umbrella company, the end client is also treated as a relevant party.

If both the client and the top agency are offshore (but some subcontractor in the chain is UK-based), the rule will skip down to the nearest UK entity in the chain to pin liability there. In essence, HMRC will always have a UK entity to pursue either the client or whichever UK agency is closest to the client in the supply chain. Notably, the legislation as drafted places liability on only one intermediary party (the top UK agency) rather than every link in a long chain. This means sub-level agencies or intermediaries below the top contract may not be directly liable under 61Z, a point to be aware of in complex multi-agency arrangements.

### **3.3 Section 61Z1: “Purported” Umbrella Companies (Anti-Avoidance)**

This section is an anti-avoidance provision to prevent creative circumvention of the new rules. It addresses situations where a company or arrangement *looks* and acts like an umbrella in the supply chain but, for example, does not actually employ the worker (perhaps to dodge the literal definition of “umbrella company”).

If a person or entity is involved in a setup such that others in the chain would reasonably assume it’s the worker’s employer (i.e. an umbrella), but the worker is not directly employed by it, then Section 61Z1 can deem the worker to be employed by that “purported umbrella company” for tax purposes. In short, the arrangement will be treated as an ordinary umbrella scenario, triggering joint and several liability as if the umbrella rules applied. This catches schemes like contractor-owned companies or

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trust arrangements that pay the worker in untaxed ways while giving the appearance of a compliant PAYE umbrella.

Under s.61Z1, all parties involved in such a scheme (any real employer plus the pretend umbrella entity) can be made jointly and severally liable for the PAYE on all payments to the worker that should have been taxed. This ensures “disguised” umbrella setups cannot be used to escape the JSL rules.

In addition to those core sections, the draft legislation makes consequential changes to existing laws. For example, it amends PAYE regulations to facilitate HMRC’s enforcement against a relevant party as if they were the employer (allowing HMRC to issue a Reg 80 determination and require tax security deposits from agencies or clients).

### **3.4 National Insurance Contributions**

It also updates record-keeping requirements so that intermediaries involved in these arrangements must retain and produce relevant information, just as under current agency tax rules. Furthermore, while the draft clauses themselves cover only Income Tax via PAYE, parallel provisions for National Insurance Contributions (NICs) are expected. The law will empower the Treasury to enact regulations by amending section 4A of Social Security Contributions and Benefits Act 1992 making agencies/clients jointly and severally liable for unpaid Class 1 NIC in the same situations. In effect, both employee tax and NIC (and by extension, the Apprenticeship Levy which is tied to PAYE earnings) will be encompassed by the time the rules go live in 2026.

### **3.5 Absolute liability**

It is important to highlight that the JSL is absolute. There is no built-in defence for agencies or clients who acted in good faith. Unlike some other compliance regimes, the new JSL rules include *no* “reasonable care” exemption. An agency could perform extensive due diligence on an umbrella and still be on the hook for that umbrella’s tax defaults with no statutory excuse. This stark fact underscores the need for robust preventative measures: the burden is on agencies and end-hirers to ensure the tax is paid correctly in the first place, since they cannot avoid liability by claiming they didn’t know or tried their best. HMRC’s stance is clear that what matters is that the tax is paid, not just that you had a policy or contract in place expecting it to be paid.

In practical terms, joint and several liability means HMRC can choose to pursue any liable party (umbrella, agency, or client) for the full amount of tax owed. HMRC is not required to chase the umbrella company first or proportionally split the bill, it can immediately demand the entire sum from whichever party is most accessible and solvent. Indeed, the government explicitly envisions that HMRC “may not even need to attempt to collect unpaid taxes from the umbrella company” at all if a recruitment agency is available to pay instead. The umbrella and the other party are joint debtors, meaning if one pays, the others are off the hook for that amount, but until then each can be held liable for the full debt.

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### 3.6 Effective date

The JSL provisions are slated to come into force for payments from 6 April 2026 onward, aligning with the new tax year. So, the provisions are not retrospective. This lead time gives businesses in the contingent workforce sector the opportunity (and warning) to adjust their practices before the liabilities bite.

## 4. What Joint & Several Liability Means in Practice

Joint and several liability (JSL) is a legal concept where multiple parties are each fully responsible for a debt. In the context of these umbrella rules, it means HMRC can recover unpaid PAYE tax from *any* one of the jointly liable parties (umbrella, agency, or client). So, that party could be made to pay 100% of the tax due, regardless of which party's failure caused the shortfall.

The liability is “several” as well as joint, so HMRC has flexibility in enforcement. For example, if an umbrella company withholds £10,000 in Income Tax from workers' pay but does not pay it to HMRC, the Revenue could demand up to the full £10,000 (plus penalties/interest) from the responsible recruitment agency, even though the agency already passed that money to the umbrella as part of invoiced payroll costs. The agency might then be left to try to recover that sum from the defaulting umbrella (perhaps futile if the umbrella has collapsed).

Crucially, under JSL, HMRC is empowered to skip directly to the agency or client without first exhausting action against the umbrella company. In practice, we expect HMRC will indeed target the agency as the “first port of call”, since by definition these rules apply when the umbrella is *non-compliant* (and likely unable or unwilling to pay).

### 4.1 Proportionality

If the umbrella company is non-compliant, what proportion of the umbrella's debt will the top agency or the end client be liable for?

The legislation applies to each worker separately (s. 61Y(1)(a)). The relevant party (or relevant parties) for the supply chain involving services provided by that worker will be jointly and severally liable for the amount payable by the umbrella company under PAYE in relation to the worker. So, all relevant parties that have used an umbrella company won't be jointly and severally liable to the full amount that is payable by an umbrella company under PAYE.

Where the worker has more than one engagement through a single umbrella company, the amount that the relevant party, or parties, for each supply chain is jointly and severally liable to will be limited. This will be to the amount payable by the umbrella company under PAYE in relation to the amount of the payment made to the worker that is attributable to the services provided to the client in that supply chain (s. 61Y(3)).

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## 4.2 Existing Joint and Several Liability

For umbrella companies and agencies, it's worth noting this JSL model is not entirely unprecedented. Similar debt transfer provisions exist elsewhere in tax law, for example, the off-payroll working (the IR35 reforms) can transfer tax liability from a personal service company to the client or agency if there's non-compliance, and the Managed Service Company (MSC) legislation can make directors or others jointly liable for a company's tax debts.

However, unlike IR35's reforms in 2017/2021 (which include a defence for clients who took "reasonable care"), the umbrella JSL has no such safe harbour. Even an agency that conducted rigorous checks on an umbrella and had contractual protections could still be made to pay if that umbrella goes rogue. In HMRC's view, giving agencies a direct financial stake in the outcome ensures they will police their supply chains far more stringently than HMRC alone could.

## 4.3 Agency Payroll

Another practical implication is that agencies may effectively need to budget for potential tax exposure or change their payment processes. One suggestion in the industry is that an agency using umbrella contractors could choose to pay the PAYE tax to HMRC *upfront* (on the umbrella's behalf) each pay cycle, remitting only the net remainder to the umbrella for the workers' net pay.

By doing this, the agency would eliminate the risk of the umbrella not paying over the deductions, since the agency itself would have already satisfied the tax liability directly. While this approach is not mandated, it shows the extent to which agencies might go to mitigate JSL risk. Alternatively, some agencies might decide to bring contractors onto their own payroll or set up their own compliant umbrella operation, rather than trust an external umbrella, given that they'll bear the tax risk either way. Umbrella insurance products or guarantees are being developed.

In sum, the introduction of JSL means "who pays the tax" is separated from "who made the error/avoidance." Even if the non-payment of tax is entirely the umbrella company's doing (or even a deliberate scam), the agency or client can be left holding the bill. All parties in the supply chain must therefore treat ensuring PAYE compliance as a shared responsibility. The following sections discuss the specific impact and required actions for each type of entity involved in umbrella arrangements.

## 4.4 Agency payroll and the Elective Deduction Model

If the agency pays the worker on payroll but engages them on a contract for services, the liability could be under Chapter 7 s.44 ITEPA not, Chapter 11 JSL.

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## 5. Impact on End Clients

End clients (the organisations receiving the worker's services) generally benefit from the services of umbrella companies by outsourcing employment administration for contingent workers. Under the new JSL legislation, an end client's direct liability for payroll taxes will arise primarily in either of two circumstances:

### 5.1 No Agency Involved:

If the end client contracts directly with an umbrella company to supply workers (with no recruitment agency as intermediary), the end client will be a joint and severally liable party by default. In this scenario, the client effectively steps into the "agency" role in the eyes of the law. Should the umbrella fail to pay the required PAYE, HMRC can pursue the client for the full amount.

### 5.2 No umbrella Company involved:

If the end client contracts directly with a recruitment company to supply workers (with no umbrella company) specifically under a contract of employment that does not include a deemed employment, the end client will be a joint and severally liable party by default. In this scenario, the client effectively steps into the "agency" role in the eyes of the law. Should the agency fail to pay the required PAYE, HMRC can pursue the client for the full amount.

### 5.3 Involvement of Offshore or Connected Agencies:

Even when a supply chain does include agencies, an end client can still be exposed if those intermediaries are not suitable UK-based independent entities. The draft law provides that if the agency interfacing with the client is outside the UK or is "connected" to the umbrella company, then the end client is pulled in as a jointly liable party alongside that agency. This is an anti-abuse measure to stop the use of a friendly offshore agency (perhaps owned by the same promoters as the umbrella) to shield the true culprits. In short, if an end client engages contractors through a non-UK agency or a labour supplier that is colluding with the umbrella, the end client cannot wash its hands of liability. HMRC can pursue the client itself for the umbrella's tax debts.

In practice, most end-hirers who use contractors do so via UK recruitment agencies, and those clients will *not* be on the front line of PAYE liability under the new rules (the agency would be). However, end clients are indirectly affected in several ways:

## 6. Impact on Recruitment Agencies ("Top Agencies")

Recruitment agencies, particularly the top agency that holds the contract with the end client, are at the centre of the new JSL regime. In most labour supply chains, this is the entity that will bear the brunt of any umbrella payroll failures. Under Section 61Z, if a worker is supplied via an umbrella, the agency contracting directly with the client is the "relevant party" jointly liable for the umbrella's PAYE. For agencies, this represents a

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profound shift. They are moving from a role of intermediary (passing on workers and payments) to being a de facto guarantor of the umbrella's tax compliance.

Key implications for agencies include:

## **6.1 No Excuses or Escape Clauses**

As noted, there is no statutory defence for agencies under these rules. An agency cannot avoid liability by saying "we didn't know" or "the contract said the umbrella was responsible." Even if the contract with the umbrella states the umbrella must pay the tax, HMRC can still pursue the agency. Additionally, agencies cannot contract out of the legislation's effect. Any private indemnity from an umbrella is only as good as that umbrella's ability to pay (which, in cases of fraud or insolvency, is often zero). Thus, agencies must treat preventing non-compliance as the only sure way to avoid financial pain.

## **6.2 Enhanced Due Diligence on Umbrellas**

Virtually all commentary agrees that agencies will need to dramatically step up their due diligence and ongoing monitoring of umbrella companies. This goes beyond basic checks. Agencies will likely restrict their preferred supplier lists to a small number of accredited umbrella companies that have been thoroughly vetted for compliance. For example, ensuring the umbrella is registered with HMRC for PAYE, examining sample payslips, verifying that the umbrella genuinely pays holiday pay and National Minimum Wage, and perhaps even obtaining independent audits of the umbrella's PAYE remittances.

## **6.3 Reducing the Number of Umbrella Suppliers:**

Many recruitment businesses may respond by streamlining the supply chain i.e. using fewer umbrella companies, and only those with a proven compliance record. By limiting the umbrellas, they engage (perhaps to a curated panel or even a single in-house umbrella), agencies can more easily monitor and control the process.

## **6.4 Contractual Controls and Indemnities:**

Agencies will certainly revise contracts with umbrellas to incorporate strong indemnity clauses requiring the umbrella to reimburse the agency if the agency is forced to pay the umbrella's tax debt. They may also include clauses allowing the agency to inspect and audit their processes.

## **6.5 Operational Changes – Payroll and Insurance:**

As noted earlier, some agencies may decide it is safer to run payroll themselves for all contractors i.e. convert umbrella workers into agency PAYE workers or direct limited company engagements where appropriate. This avoids the JSL issue altogether since if the agency is paying HMRC directly, there's no risk of a third party failing to pay.

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Although it is worth noting that the other deemed intermediary Chapters 7-11 of ITEPA may apply.

## 7. Impact on Managed Service Providers (MSPs)

Managed Service Providers (MSPs) in the staffing context are firms that manage an organisation's contingent workforce program, often acting as an intermediary between the end client and multiple recruitment agencies or suppliers. In many cases, an MSP (or a "master vendor") may hold the primary contract with the end client and then farm out requirements to secondary agencies or umbrella companies. Under the new legislation, the role of an MSP can closely resemble that of a "top agency" meaning the MSP could be deemed the relevant party liable for PAYE in certain arrangements.

### 7.1 Contracted MSP

If the MSP is the entity contracting directly with the end client for the supply of contractor labour (with umbrellas further down the chain), then the MSP will likely be treated as the relevant party under section 61Z(1). Essentially, HMRC will view the MSP as the top-of-chain agency responsible for ensuring PAYE is paid. This is common in models where the client signs a single agreement with the MSP, and the MSP in turn manages and pays underlying suppliers or umbrellas. In such a case, the MSP faces the same liabilities and duties as any top agency would under JSL. If an umbrella company in the chain fails to pay tax, the MSP can be pursued for those taxes.

### 7.2 Admin MSP

Some MSP arrangements are purely administrative, where the client still contracts with individual agencies, but an MSP oversees compliance and processes. In those cases, the legal contract with the client might still be with each agency, not the MSP. Here, the agency remains the "relevant party" on paper.

However, even in an admin setup, an MSP is typically tasked with compliance monitoring. If HMRC cannot easily pin liability on the MSP (since it's not formally the supplier), they will go after the top agency on contract. But the client will expect the MSP to have prevented the issue in the first place. Therefore, even when not directly liable by law, MSPs carry a reputational and contractual responsibility to ensure tax compliance among the supply chain they manage.

## 8. Impact on Umbrella Companies

The draft Finance Bill changes do not alter or reduce the umbrella company's own liability for PAYE. Therefore, a compliant umbrella company that has always paid its taxes on time should, in theory, be unaffected in terms of direct tax liability. However, the commercial and operational context for umbrellas will change significantly.

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## **8.1 Greater Scrutiny and Due Diligence from Agencies/Clients:**

Umbrella companies will face far more intensive vetting by agencies and MSPs who are now on the hook for the umbrella's failures. We can expect umbrellas to be asked to provide evidence of PAYE and NIC compliance on an ongoing basis. This could include sharing PAYE reference numbers, proof of HMRC payments (perhaps copies of HMRC receipts or account statements), and undergoing external audits.

Umbrellas that have invested in robust compliance will be able to provide these with relative ease, whereas those that relied on opacity or dubious practices will struggle. Umbrellas should be prepared to open their books more to reassure partners.

## **8.2 Market Shake-Up – Survival of the Compliant:**

The JSL reforms will likely drive consolidation. Compliant umbrella companies may benefit from an influx of business as agencies narrow their PSLs to only trusted providers. If agencies cut ties with high-risk umbrellas, the latter could rapidly lose their supply of workers and go out of business (which is an intended outcome. HMRC wants to “permanently exclude rogue operators from the supply chain”).

Umbrellas that have been involved in aggressive tax avoidance (e.g. paying workers via loans or artificially splitting pay to avoid tax) will find themselves blacklisted under the new regime. Meanwhile, umbrellas with clean records, good governance, and transparency can position themselves as safe partners and potentially capture a larger share of the market. In short, the reform punishes bad behaviour and should reward good behaviour, assuming agencies enforce it diligently.

## **8.3 Pressure to Maintain Compliance Standards:**

For those umbrella companies that *are* compliant, the stakes of any lapse will now be higher. A payroll error or a missed tax payment not only incurs penalties from HMRC as before, but now it could immediately trigger consequences from agency partners, e.g. an agency might suspend sending new contractors or even terminate the relationship after one breach, knowing their own liability is on the line.

So, umbrellas will need to double down on internal controls ensuring all PAYE is calculated correctly, paid on or before due dates, and all Real Time Information (RTI) reports are accurate. Umbrellas might need to invest in better payroll systems or hire additional compliance officers, anticipating that their every move might be under the microscope of agencies (or HMRC's new data analysis tools). The margin for error will be extremely slim.

## **8.4 Legal and Reputation Considerations:**

It's worth noting that even though the law allows HMRC to go after agencies, HMRC can and will still pursue umbrella companies for their failures (including possibly criminal prosecution in egregious fraud cases). The joint liability isn't a free pass for umbrellas. If anything, it paints a bigger target on them for HM Treasury and regulators. We may see

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more instances of HMRC naming and shaming non-compliant umbrellas (a practice already started, with HMRC publishing a list of tax avoidance promoters, which has included umbrella firms). The sector is also moving toward statutory regulation in 2027 (through the anticipated Employment Rights Bill), which will formally define and license umbrella companies.

## 9. Compliance Strategies and Recommendations

All parties involved in umbrella arrangements will need to adapt their strategies and take proactive steps in light of the upcoming joint liability rules.

These are some recommendations and best practices for each:

### 9.1 For End Clients (Hirers)

End clients should review their contractor engagement models now. If you directly engage umbrella companies, evaluate switching to a model that uses a reputable agency or MSP to shield you from direct tax liability. Conduct thorough due diligence on any recruitment suppliers, ask them how they select and monitor umbrellas.

End clients may want to mandate the use of pre-approved umbrella companies that have been accredited by FCSA or they have SafeRec certification or both. It's prudent to include clauses in contracts with agencies/MSPs requiring them to comply with all PAYE laws and perhaps indemnify the client for any tax losses caused by their supply chain (realising that if the agency goes bust, indemnities have limits).

Internally, ensure your procurement and HR teams are aware of these changes; they should prioritise compliance over just cost or speed when selecting staffing suppliers. Finally, consider obtaining audits or certifications of your extended workforce supply chain for example, engage an independent auditor to sample-check that contractors' pay is being taxed properly.

### 9.2 For Recruitment Agencies

Agencies should treat the run-up to April 2026 as a deadline to implement comprehensive compliance programs for umbrella usage. Key actions include:

*Audit your current umbrella roster:*

Determine which umbrellas your contractors use, and perform risk assessments on each. If any are known to use loan schemes or have been named by HMRC for avoidance, cease using them immediately.

*Develop a Preferred Supplier List (PSL):*

Select a limited number of umbrella partners (perhaps only accredited firms, or those that have been vetted directly) and require all contractors go through these umbrellas. This makes oversight manageable.

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#### *Strengthen contracts with umbrellas:*

Include clauses requiring the umbrella to provide evidence of PAYE payments on request, notify you of any HMRC compliance interventions, and indemnify you for tax losses. While, as noted, an indemnity is only as good as the umbrella's solvency, it sets a legal expectation and could deter bad behaviour.

#### *Real-time compliance monitoring:*

Implement processes to verify that for each payroll period, the umbrella has indeed paid over the tax. This could be done by requesting a monthly statement from the umbrella showing PAYE payment references, or using a third-party software solution that integrates with HMRC's systems. If an umbrella ever falls behind on a payment, be prepared to step in, maybe by temporarily paying workers via your own payroll until the issue is resolved.

#### *Training and awareness:*

Ensure your recruiters and account managers understand the implications of the new rules. They should know that placing a candidate via an unknown umbrella is not just routine, it could carry financial risk to the agency. Build a culture where compliance concerns can be raised and acted upon, even if it means pushing back against a contractor's preference for a certain umbrella.

#### *Financial planning:*

Talk to your finance team and potentially your insurers. Quantify the worst-case exposure if an umbrella defaulted, do you have reserves to cover it? It may be wise to allocate a contingency in budgets or explore insurance coverage for tax liability transfer (if available). Also engage early with HMRC if you identify a problem; HMRC might be more lenient in terms of time to pay if you come forward early when an umbrella issue is discovered, rather than waiting for them to chase you.

### **9.3 For Managed Service Providers**

MSPs should incorporate all the agency-focused steps above and additionally coordinate compliance across their supplier network. Develop a comprehensive compliance framework that all participating agencies and umbrellas must adhere to. This could include a standard vetting procedure for umbrellas that any agency must use if they want to supply under your program.

#### *Facilitate information-sharing:*

If one agency discovers an umbrella is non-compliant, the MSP should quickly relay that to all other agencies and the client. MSPs can also centralise the monitoring, for instance, the MSP could be the point that receives all umbrella PAYE confirmation reports, rather than leaving it to each agency, creating a one-stop oversight function. Strengthen your MSP contracts by explicitly detailing the duties of agencies to only use approved umbrellas and perhaps requiring them to obtain your consent for any

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umbrella not on the list (giving you a chance to vet). Essentially, MSPs need to function as the compliance gatekeeper on the client's behalf, since the client has outsourced that responsibility to them.

## **9.4 For Umbrella Companies**

Umbrellas must be proactive in demonstrating compliance and building trust. If you haven't already, seek accreditation from recognised industry bodies and ensure all their codes of conduct are followed. Prepare a due diligence pack to give to agencies/MSPs, for example, your PAYE reference, VAT number, proof of HMRC payments (maybe a redacted HMRC account statement), copies of typical worker payslips showing proper deductions, etc.

### *Embrace transparency:*

Be willing to answer agencies' detailed questionnaires about how you operate (e.g. do you use any loan payments? how do you fund tax payments if a client is late on paying an invoice? etc.). Also, strengthen your own processes: always pay HMRC on time, even one slip-up can now cost you multiple business relationships. It may be prudent to build a financial buffer or arrange financing so that even if a client's payment is delayed, you never delay the PAYE to HMRC. Some umbrellas keep a standing bond or reserve for this purpose, which can be a selling point to agencies.

Communicate clearly with contractors as well. Ironically, some contractors might be concerned that agencies are taking over or "policing" their umbrella; assure them that any additional checks are industry-standard and ultimately protect everyone involved.

Lastly, keep an eye on evolving guidance: HMRC is likely to release guidance on the new law before April 2026, and perhaps a code of practice. By staying ahead of that and aligning with best practices, you can position your umbrella as a trusted, low-risk partner in the new environment.

## **9.5 For Contractors (indirectly)**

While not the focus of this white paper, contractors using umbrellas should also be aware of these changes. They will want to stick with compliant umbrellas because if their umbrella gets blacklisted or removed by agencies, it could disrupt their engagements. Contractors should be wary of any umbrella still pushing "too good to be true" pay schemes, those will likely implode under the new regime, and being tied up in one could mean headaches (like needing to pay back avoided tax later).

The Government has been urging workers to check their payslips and ensure correct deductions, that advice remains critical. In short, contractors should choose umbrellas that play by the rules, even if it means a bit less take-home pay, for their own peace of mind.