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INDUSTRY BODIES DEMAND CLARITY ON IMMIGRATION, IR35 AND NO-DEAL BREXIT

GRAHAM SIMONS 13 December 2019



Recruitment bodies have demanded clarification from Prime Minister Boris Johnson's new government around plans on immigration and IR35 reform.

Following the Conservatives' landslide victory in yesterday's general election, the industry bodies also call on the government to do everything it can to avoid a no-deal Brexit.

With the Tories now commanding a majority of 78 in Parliament, Neil Carberry, CEO of the Recruitment & Employment Confederation, said a no-deal Brexit would be disastrous for jobs and must not be allowed to happen. The Brexit transition period must now be put into action and a realistic plan put in place for long-term trading arrangements, he argued.

"The biggest challenge to growth is skills shortages. The nation's productivity hinges on government's ability to address this. One huge opportunity is to open up the

Apprenticeship Levy to the millions of people who choose flexible work. But for the sick to be treated, for homes to be built and for food to be produced, the UK also needs an immigration system that meets employers' needs for skills at all pay-levels – not just 'the brightest and the best'.

"Few things matter more to people's daily lives than the work that they do – the government must act now to underpin the jobs of the future. While we welcome the Conservatives' promise to review the IR35 tax reform, it is wholly unfit for purpose and implementation must be delayed.

"Our message to the incoming government is to work with us to rev up the UK's jobs machine and make great work happen."

Tania Bowers, general counsel at the Association of Professional Staffing Companies (APSCo), welcomed the clarity that the scale of the Conservative victory brought but raised concerns that the Conservatives had confirmed that they would not extend the Brexit implementation period beyond December 2020.

"We believe this increases the risk of no free trade agreement – effectively creating a 'no-deal' scenario – which will not be favoured by the majority of our members.

"Although not mentioned in the party's manifesto, since the document was published, Chancellor of the Exchequer, Sajid Javid has promised a review of how the government could further help the self-employed, adding that 'one thing in particular' he wants to look at is the proposed changes to IR35. We welcome this commitment whole-heartedly.

"In terms of future migration policy, our members will welcome the government's commitment to 'attract the best and brightest from all over the world'. Although an 'Australian-style' points-based system would, in theory, remove barriers for highly skilled professionals, APSCo maintains that we need a system which is sufficiently flexible to enable those without a permanent job offer to live and work in the UK.

"APSCo also welcomes the Conservatives' commitment to improve the Apprenticeship Levy but we believe they could do more to ensure that the system works effectively. With recent figures revealing that employers have lost £133m from Apprenticeship Levy accounts due to funds expiring, there is clearly need for reform.

"Overall, I believe our members will be encouraged by the policies put forward by the incoming government, and we look forward to working with the new government to ensure that the voice of the professional recruitment sector is heard at the highest levels."

Adrian Marlowe, chair of the Association of Recruitment Consultancies (ARC), said he hoped that the [promised review of IR35](#) can be done as soon as possible, as business needs to know whether it will apply from April 2020.

"However, we call for this review to be in conjunction with reform of employment status. In February 2018 it was recognised that 'employment status is the core of both employment law and the tax system', but that 'it often fails to provide the clarity and certainty that individuals and businesses need'. The Good Work Plan in December 2018 promised to review employment status, yet little action to provide that clarity has yet been taken.

"IR35 relies on determination of employment status and many businesses affected will not only suffer from lack of certainty but may be forced to undertake unnecessary

administrative change and pay inappropriate levels of tax as a result. It makes little sense to proceed with the IR35 change without reviewing the employment status rules.

“We welcome investment in the NHS, education and climate change policy, particularly as the UK aspires to lead on climate change technology. Each demands policies for staff supply that promote work in the UK to those we need from home and abroad to address the highlighted shortages. Recruitment and employment specialists will inevitably remain key ... At the same time, we would welcome greater investment in national training in the areas that are really necessary – for example, health, education and green technology, and believe a sharper focus for the apprenticeship levy into these areas is compelling.”

Jonathan Beech, managing director of immigration law firm Migrate UK, called on the government to provide greater clarity around its immigration policy.

“Back in September, the Conservative home secretary asked the Migration Advisory Committee (MAC) to review how an Australian-style points-based (PBS) immigration system could be introduced in Britain to strengthen the UK labour market. But we’re still no clearer on how this new system would work in practice in the UK, and how this fits with the MAC’s much anticipated white paper review into minimum salary thresholds.

“The new immigration system is also meant to be ‘fairer and more compassionate’, although the Conservative’s election manifesto stated that the immigration health surcharge will increase to as much as £800 per person per year, implying further increases from the £625 previously announced.

“The new Conservative government should look to introduce a declaratory registration system through an Act of Parliament, which would confer automatic rights to EU citizens currently residing in the UK to continue to live and work in the UK after Brexit. Hopefully this is something the Conservative Party will now consider so we don’t see scenarios similar to those with the Windrush scandal.”

Fraser Vandal, solicitor at UK law firm TLT, agreed, adding there is now a degree of certainty as to the UK’s future immigration policy.

“Although described as an Australian-style system, there remains a lack of clarity as to what precise form this will take. It is clear from the Conservative manifesto that the system will actually be quite different to the current Australian system in some respects. For example, a concrete job offer is not always required to secure an Australian visa, but the manifesto notes that a clear job offer will be needed under the proposed new system.

“Overall, firm details of the proposal remain thin on the ground, but we can expect more specifics once the Migration Advisory Committee provides its report on the issue, which is expected early next year. There is also the lingering question of whether any points-based system will be regionalised, or apply uniformly across the UK. In particular, recent statistics show that Scotland is reliant on net migration to maintain its current level of working population.”

Lee Biggins, founder and CEO of independent job board CV-Library, speculated over whether the Conservative Party would be able to uphold its pledges around immigration, the National Living Wage, income tax thresholds, and the recruitment and retention of NHS staff.

“The real focus for the government needs to be on instilling confidence back into our society, as this has been somewhat absent over the past 12 months,” he added.

Seb Maley, CEO at contractor insurance provider Qdos, also called on the new government to deliver on its promise to support the UK’s self-employed and review IR35 reform.

“The government has an opportunity to finally deliver for the self-employed who, after years of neglect, remain sceptical of the Conservative Party’s commitment to them. The likelihood is, many freelancers and contractors will have voted Conservative based on the party’s IR35 promise. The government now has a responsibility to honour its pledge to hold a genuine review of reform.

“While a review is a sign of progress, it doesn’t mean the changes will be scrapped. Therefore, contractors, recruitment agencies and end-clients must continue their preparations.”

Julia Kermode CEO of professional membership body The Freelancer & Contractor Services Association (FCSA), echoed Maley’s sentiments: “We must now hold him to account and press him to conduct that review, and with only just over three months to go before the legislation is due to be rolled-out in the private sector, surely that must mean a postponement?”

“We are already seeing the very real impact of this damaging legislation on businesses and thousands of professionals. If they don’t delay then the promise was nothing short of an arrogant and disingenuous move to secure votes.

“We have also learned today that the budget is now being planned for February/March, which is simply too late for the off-payroll legislation to be properly implemented. Many businesses have already invested heavily in preparing for the changes and given the legal requirement for reasonable care it is unrealistic to press pause for a potentially meaningless review to take place. If the government wants to avoid utter chaos and shambles, businesses need clarity now.

“I would also hope that the government uses its mandate to deliver on the Good Work Plan. One of the commitments was to regulate umbrella firms from April 2020 and we are yet to see any draft legislation and time is running out. And, with many sham ‘umbrella’ firms opening up in business with the specific aim of cashing in on the off-payroll reforms it should be a priority for Mr Johnson, lest we will see a slew of tax avoidance schemes wreaking havoc once again on the lives of innocent people along the lines of what we have seen with the loan charge.”

Dave Chaplin, CEO and founder of contracting authority ContractorCalculator and director of Stop The Off-Payroll Tax campaign, said: “Having a complex employment status test at the heart of the tax system hasn’t worked for 20 years under the intermediaries legislation and hasn’t worked under the new rules in the public sector either. The off-payroll rules in their current proposed format create an unfairly burdensome scenario, which has the potential to poison the entire engagement process between contractor, client and agency.

“I would urge the prime minister to now confirm that he will conduct a proper review, put the off-payroll roll-out on hold, and work with the contracting community and stakeholders on devising how best to recognise contracting and freelancing in the tax system. An off-payroll review should be put right at the top of his agenda as he takes up office again.”

John Bell, founder and senior partner at licensed insolvency practitioner Clarke Bell, warned if the reforms are rolled out into the private sector it would have a huge impact on businesses and contractors.

“We need a review into IR35 as a matter of urgency as the uncertainty is having a crippling effect on the livelihoods of many contractors as well as impeding hiring decisions by firms. We are already seeing an increase in the number of contractors turning to us for advice on closing down their limited companies faced with the concerns that the legislation will have on their work and careers. Decisive action not platitudes is what is needed now.”

Nick Woodward, founder and CEO of recruitment timesheet software provider ETZ Payments, added: “With this Conservative win, the first thing the new government must do is look at the implications of IR35 on the self-employed population to give them greater security in seeking more freedom in their profession. At ETZ, we will be ready to provide that support for those seeking to take advantage of their productivity through freelance work.”

But Daniel Fallows, director at Gorilla Accounting, said the result of the general election provides much-needed clarity for the self-employed sector.

“Contractors and freelancers up and down the country can now get on with their business with a far clearer idea of how the regulatory environment for the self-employed will develop. However, there are still unanswered questions for the new government on this issue, and we hope that its promised review of IR35 will be a key priority.”