

**GARBETTS  
IR35 CONTRACT REVIEW SERVICE  
PRE REVIEW QUESTIONNAIRE**

Your name

Your company name

Garbetts reference for you

Date of completing this questionnaire

Name of agent (or enter direct if direct)

Name of end client

Contract start date

Garbetts Limited provide a contract review service to our clients. The fee for our review is £100 + VAT

Contract reviews are intended to help you reach a decision about a contracts IR35 status. They do not represent a full legal review of the contract, and if such a review is required a solicitor should be engaged. It is your responsibility to make a decision about IR35 status; our role is to offer you an opinion.

The IR35 decision is in fact based on the *Hypothetical contract* deemed to exist between you personally and the end client. This contract is not written anywhere, so in the event of an IR35 status review the task of the Inland Revenue is to construct the *hypothetical contract* and use that to check your IR35 decision.

The *hypothetical contract* scenario can work in your favour as a weak written contract can be strengthened by favourable evidence about working practices. Likewise a strong written contract can be weakened by evidence that working practices are less favourable.

For more guidance on IR35 see:

<http://www.garbetts.com/download/IR35basic.pdf>  
<http://www.garbetts.com/download/IR35status.pdf>  
<http://www.garbetts.com/download/IR35contract.pdf>  
<http://www.garbetts.com/download/IR35contractreviews.pdf>

In order to determine contracts IR35 status, it is necessary to consider:

1. The written contract's terms and conditions.
2. Any contract schedule, assignment note or similar.
3. Extra contractual matters relevant to IR35.
4. The performance of the contract in practice.

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This questionnaire is to help us review your contract and to ensure that our review is carried out quickly and efficiently. Please answer all the questions below before sending the contract to us.

Once completed this questionnaire should be sent to us along with:

- the full contract for review, including schedules (this should be to contract personalised for you, and not just a template);
- the agent to client contract if available;
- the agents statement as to the contents of the agent to client contract (if agent to client contract is not available).

General

We can only review your personalised contract. Please do not send us standard agent or client templates which have yet to be customised to your role.

Please ensure the contract schedule/assignment note is complete. We cannot review the contract if it is not

We do not have the resources to re-review contracts if amendments are made following our review, although if there are specific questions on post review amendments, we can address these for you.

The contract & your background

Have you contracted with this agent before (if so details)

Have you contracted with this client before (if so details)

Have you ever been employed by the client (if so details)

If there is an agent involved, have you asked for a copy of the agent to client contract? If yes, and you have it, please forward it to us. If refused please state so.

If you are unable to obtain a copy of the agent to client contract, have you asked for a statement from the agent that all significant clauses and conditions in the agent to PSC contract are in the agent to client contract? If yes please append this statement. If this has been refused Please state so.

Start date of this contract

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(Anticipated) End date of this contract

Is the length of this contract determined by a fixed period, or by reference to completion of tasks / project?

Is this contract an extension of an earlier contract? If so, how long was the previous contract(s)

If this is an extension, please advise if any aspects of the contract or tasks under the contact have changed.

How long have you been contracting?

How many different clients have you contracted at? If more than 10, enter "more than 10" .

Average length of previous contracts?

Have any of your previous contracts been declared as being caught by IR35 - if so please provide details.

How did you get this contract?

Was there an interview process? If so with whom? Was this a selection type interview, or just to confirm the agreement?

Terms of the contract

Does the written contract with the agent or client contain any of the following clauses. If yes, please enter the clause reference(s); if no, please state so:

Right of substitution:

Right of subcontract:

Any requirement of you to provide personal service:

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Mention of time sheets, progress reports or similar:

Obligations to hold indemnity or liability insurances:

Obligation to correct defective work at your own cost:

Exclusion of mutual obligations:

Explicit parallel contract rights:

Express exclusion of employment protection:

Service clause:

Does the contract have a detailed description of your work? If so please enter clause number/page reference:

Does the contract contain a task level breakdown of the work you are to do? If so please enter clause number/page reference:

Is payment linked to hours or days worked or linked to completed tasks?

If payment is linked to hours or days worked, how are these monitored?

Performance of the contract

Have you ever substituted or sub contracted work on this contract?

If you were ill and unable to work how would the client cover?

Have you been engaged for a specific project or as part of general labour resources?

Does the client have other contractors on the same project or tasks?

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Are you working by yourself, with client direct staff, other contractors, or combinations (if so what)?

Is your role integrated with direct staff or is it clearly different?

Are you listed in the clients internal phone list or similar - if so does this state you are a contractor?

Are you ever represented to your clients clients/customers as being part of the clients staff resources?

Do you have access to facilities like staff restaurant, social club or gym on the same terms as direct employees? On different terms?

Do you have any form of security pass? If so is it different to that issued to direct staff?

Has the client ever moved you between projects or tasks?

Have you had to correct any defective at your own expense?

Do you bear any particular risks on this contract?

Are you able to carry out any work at home/your own office? If so, how much? How often? Is permission needed?

Is permission need to take holidays and leave? If so, from whom? If not what is the leave procedure?

What level of control does the client have over how you carry out the work assigned to you?

Were you given regular defined hours to work, or could you come and go as you pleased (within reason)?

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Were you required to work overtime?

Were you required to be on call?

Extra contractual matters

These questions refer to your own circumstances, and not just this specific contract.

Have you made any significant investment in training?

Have you made any significant investment in equipment, software or technical resources other than hand tools and home office equipment (eg PC, fax)?

Does your work or business structure present any abnormal risks?

Do you engage staff (other than spouse/company secretary)?

Do you actively promote your business? If so, how?

Do you have facilities available to you other than a simple home office?

Are there any other factors not covered above, positive or negative, which you feel are relevant to the IR35 status of this contract? If so please set them out below: