

Right to Work Changes 2026

Detailed legal briefing for The Recruitment Network members | 12 October 2026

Legal obligations and risk management for recruitment businesses supplying temporary workers and contractors.

This briefing provides general legal information, not advice on a particular engagement. Apply the legislation and current Home Office guidance to the actual contractual and working arrangements before deciding who must check.

1. Executive summary

From 1 October 2026, section 48 of the Border Security, Asylum and Immigration Act 2025 extends the illegal-working civil penalty framework in the Immigration, Asylum and Nationality Act 2006 to additional working arrangements. New sections 14A and 15A are especially significant for recruitment agencies and labour supply chains. The question is no longer answered simply by identifying the payroll employer.

- The extended scheme covers engagement under a worker's contract, individual subcontractors and qualifying online matching services.
- Section 15A can treat a business contracted to provide or arrange work or services as employing the individual who personally performs them for civil penalty purposes, even without a direct contract or knowledge of that individual.
- Liability may therefore arise at more than one level of a supply chain. Contractual allocation and an umbrella's checks do not automatically eliminate an agency's statutory exposure.
- Prescribed checks before work begins, evidence retention, follow-up checks and auditable supply-chain controls should be prioritised.

2. Legislative framework and commencement

Sections 15–24 of the Immigration, Asylum and Nationality Act 2006 contain the illegal-working civil penalty and related framework. Section 48 of the 2025 Act inserted sections 14A and 15A and extended relevant references to employment. The Border Security, Asylum and Immigration Act 2025 (Commencement No. 4) Regulations 2026 (SI 2026/683), regulation 2, brought section 48 into force on 1 October 2026.

Section 14A captures (a) engagement under a “worker's contract”, (b) engagement of an individual subcontractor, and (c) qualifying online matching services providing details of individual service providers to potential customers. These are defined statutory categories, not a blanket rule that every business-to-business consultancy agreement is identical to direct employment.

Section 15A is particularly important for intermediaries. Where a business contracts to provide or arrange work or services, it may be treated as employing an individual who personally performs any of that work for section 15 civil penalty purposes, regardless of direct contractual privity or knowledge. Section 15A(6) preserves the liability of other employers. Agencies should therefore assess their place in each supply chain, not rely on the proposition that only the umbrella or PSC can be responsible.

3. Who is responsible in common recruitment models?

Model	Legal and practical position
Direct PAYE agency temp	Agency as employer: prescribed pre-start check; repeat if time-limited permission.
Worker engaged by agency under worker's contract	Agency may be directly within section 14A even if not employed under a contract of service.
Umbrella-employed worker supplied through agency	Umbrella has employer duties; agency must separately consider section 15A supply-chain exposure and evidence of compliant checks.
Individual self-employed subcontractor	Business engaging the individual should assess section 14A; intermediaries arranging performance must assess section 15A.
PSC / limited-company contractor	Do not assume the corporate wrapper resolves liability. Analyse who personally performs services, contractual chain and statutory definitions; PSC may also have employer duties.
Second-tier supplier / managed service chain	Each intermediary contracted to provide or arrange work should assess potential section 15A liability; maintain flow-down controls and audit access.
Online matching platform	Consider whether the platform meets the specific statutory online matching service definition; specialist advice may be appropriate.

4. Statutory excuse, checking methods and evidence

A properly performed prescribed check can establish a statutory excuse against a civil penalty for the person entitled to rely on it. The precise requirements depend on the worker's immigration status and the relevant checking route. A contractual warranty or a copy of another organisation's assurance is not, without more, a substitute for satisfying the applicable statutory requirements.

- Home Office online service: use the worker's right to work share code and date of birth, inspect the resulting status and photograph, and retain dated evidence.
- Digital identity route: an eligible British or Irish passport/passport card may be checked using an approved identity service provider; the engaging business must still meet its own responsibilities.
- Manual route: inspect acceptable original documents as required by current guidance and retain legible dated copies; a video call alone is not a manual document check.
- Employer Checking Service: where applicable, obtain and retain a Positive Verification Notice rather than making assumptions about pending immigration applications.
- Time-limited permission: record expiry dates and conduct the prescribed follow-up check in time. Confirm any hours, role or other work restrictions.

Keep right to work check evidence securely throughout the relevant employment or engagement and for the applicable post-engagement retention period specified by Home Office guidance (generally two years). Record who checked, when and by which route. Apply consistent checks without nationality-based selection.

5. Penalties, criminal exposure and other risks

Civil penalties under the current framework can reach £45,000 per illegal worker for a first breach and £60,000 for repeat breaches, subject to the statutory scheme and applicable code. The criminal offences have separate elements; do not conflate a civil penalty with automatic criminal liability. Sponsor licence consequences, contract termination, tender exclusion, service disruption and reputational damage can also arise.

Where a concern is identified, stop any unsafe deployment decision, preserve records, investigate promptly and obtain specialist advice. Do not assume that immediate termination is legally appropriate without considering employment, discrimination, data protection and immigration obligations.

6. Contractual risk allocation and governance

Recruitment businesses should review agency–client, agency–umbrella, PSC, master vendor and subcontracting terms. Contractual protections are important but cannot contract out of statutory liability.

- Define the entity responsible for each prescribed check and the deadline before deployment; address repeat checks and status changes.
- Require warranties of compliance, documented verification, prompt notifications, audit rights and cooperation with Home Office enquiries.
- Flow down equivalent obligations throughout subcontracting chains and ensure practical access to evidence, subject to data protection controls.
- Consider proportionate indemnities, insurance exclusions, liability caps and remedies; avoid promising indemnification for penalties without assessing enforceability and commercial risk.
- Provide suspension, removal, replacement and termination rights with fair escalation and evidence-preservation procedures.

7. Worked scenarios

Scenario A: One-day PAYE booking

An agency employs a temp for a single shift. Duration does not remove the pre-start checking requirement. Complete the prescribed check before the shift and retain evidence.

Scenario B: Umbrella supply through an agency

An umbrella employs the individual and tells the agency that checks are complete. The umbrella's role does not necessarily dispose of the agency's position under section 15A. Map the supply contract, verify the check process and obtain accessible evidence before deployment.

Scenario C: PSC consultant supplied to a client

A consultant performs work personally through a limited company, with an agency arranging supply. Examine the genuine service and contractual structure; assess the PSC's duties and whether the agency is within section 15A. A PSC invoice alone is not a safe legal conclusion.

Scenario D: Second-tier subcontractor

An agency agrees to supply services but a downstream supplier substitutes an individual without notifying the agency. Section 15A expressly addresses cases without direct contractual relationship or knowledge. Controls should cover substitutions, approval, check evidence and audit rights.

8. Recommended compliance plan

- Immediately: inventory all labour supply models and map each contractual chain, including who performs services personally.
- Within 30 days: assess statutory exposure under sections 14A and 15A for each model; update onboarding gates and escalation protocols.
- Within 60 days: review contracts, umbrella and supplier due diligence, audit rights, evidence access and data protection documentation.
- Ongoing: train recruiters and account managers; monitor time-limited permissions; sample-test files and review updated Home Office guidance.

9. Primary sources and further reading

Immigration, Asylum and Nationality Act 2006, sections 14A, 15, 15A and 16–24 (version effective 1 October 2026): <https://www.legislation.gov.uk/ukpga/2006/13/body/2026-10-01>

Border Security, Asylum and Immigration Act 2025, section 48:
<https://www.legislation.gov.uk/ukpga/2025/31/section/48>

Border Security, Asylum and Immigration Act 2025 (Commencement No. 4) Regulations 2026, SI 2026/683:
<https://www.legislation.gov.uk/uksi/2026/683/contents/made>

Home Office, Employers' right to work checklist (updated 1 October 2026):
<https://www.gov.uk/government/publications/right-to-work-checklist/employers-right-to-work-checklist-accessible-version>

Home Office, Right to work checks: an employer's guide (consult current version):
<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>

Prepared for circulation to members of The Recruitment Network. This note reflects legislation and published guidance identified as at 12 October 2026. Specific engagement structures and any enforcement issue require individual legal review.