

Tax returns

The government is finally serious about policing construction's employment practices, but the industry has no clear idea about how to respond. Elaine Knutt investigates its options and their implications.

THE BIGGEST SHAKE-UP IN construction employment practice for 20 years is hitting the industry now, and hitting it hard. Contractors, subcontractors, workers and construction clients are all about to bear the brunt of an Inland Revenue and Contributions Agency campaign to regulate pseudo-self-employed workers.

The clampdown on construction operatives who have been mis-classified and under-taxed may transfer thousands of workers on to contractors' payrolls, create a cottage industry in tax avoidance, or boost the size and influence of subcontracting labour agencies. Whatever the outcome, the effect will be to raise the industry's costs and stress levels.

As a rule, the smaller building contractors and subcontractors will face the heaviest consequences. "It's a nightmare - I'm having sleepless nights," says the managing director of one Essex-based fit-out company. Larger contractors might find that the direct effect is mostly absorbed by their subcontractors, but they will then start paying the price in tender price inflation. "It'll put 20% on labour costs for some trade contractors, about 10% on what they charge us, and 1-2% on the costs to the client," suggests Rodney Bennion, managing director of Wates Construction.

In just two weeks' time, the deadline set by the Inland Revenue and the

Contributions Agency for all contractors to review the status of their self-employed workers will come and go. After 6 April, any employer found to be employing staff on terms unacceptable to the two agencies will be liable to pay back-tax with interest, National Insurance contributions and penalties of up to 100% of the withheld tax.

The catch is that firms could be audited next month, or Inland Revenue and Contributions Agency inspectors may not descend for several years. If your firm is then found to have flouted the law - whether deliberately or innocently - the financial blow could be crippling.

Avoiding contributions

The background to next month's changeover extends over several years. Essentially, the Contributions Agency realised in the early 1990s that there was a sizeable slice of construction workers who had been avoiding NI contributions, or not declaring their full income in tax returns.

These belonged mainly to the 500 000-strong group who held 714 certificates, allowing employers to pay their wages gross and settle individual tax bills once a year. Alternatively, they used the SC60 system, under which tax was deducted by the employer (table, right). But in both cases, the authorities argued that the tax and NI contributions were going unpaid and that companies with directly

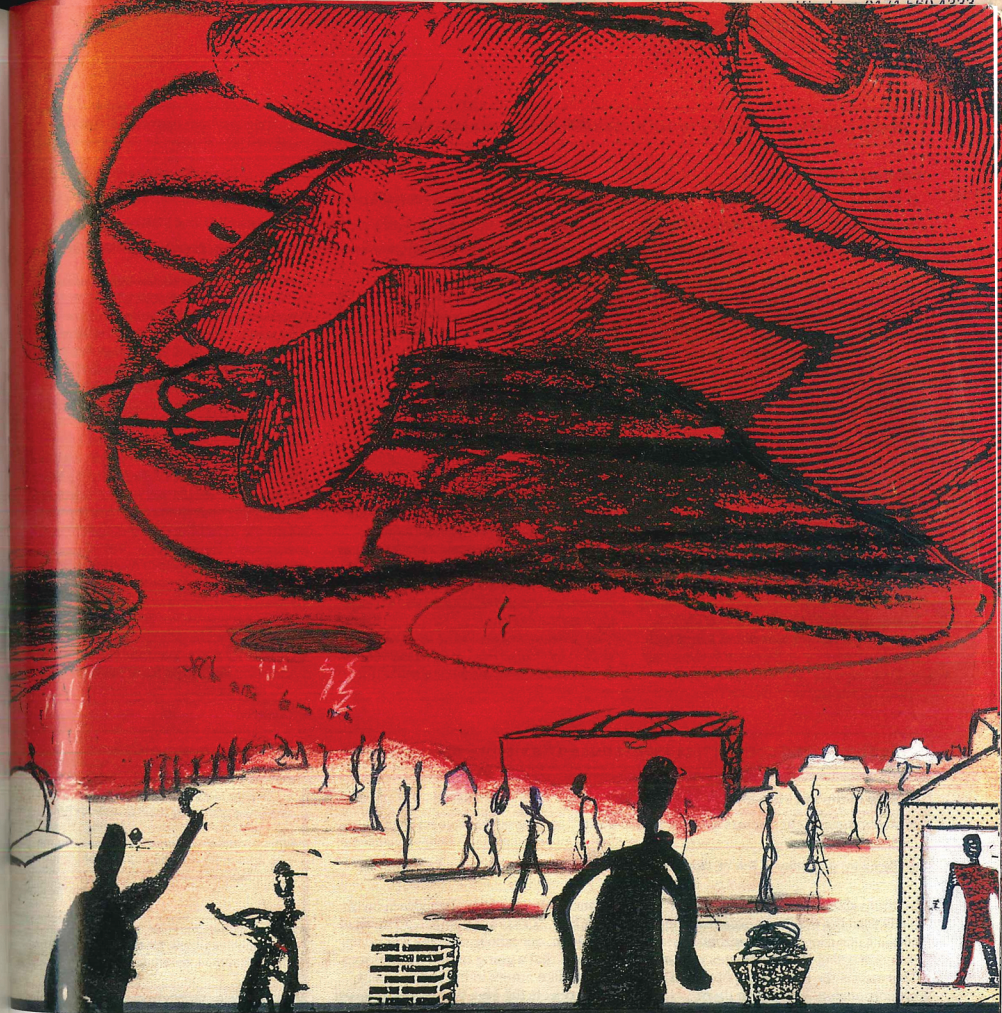
controlled self-employed staff were ducking their financial responsibilities.

Realising that this non-payment of NI contributions was a time-bomb, trade bodies such as the BEC approached the Contributions Agency and Inland Revenue seeking advice and clarification.

The response came in August 1995 in the form of leaflet IR148, which set out the tests that would indicate whether an individual could be classed as legitimately self-employed on the 714/SC60 system, in which case his or her tax and NI affairs would be of no concern to the employer. The 6 April deadline was set by the Inland Revenue last November to allow contractors time to decide what their relationships with their staff were, and to make sure those relationships complied with the government's definition of what they ought to be (table, pages 46-47).

Despite the notice period, however, the past few months have seen contractors gripped by mild panic. Accountants and solicitors have been quick to offer advice, but much of it is conflicting. Employers also report inconsistencies in the guidance available from Inland Revenue and Contributions Agency staff. But there is no doubt about the risks for employers who fail to review the status of their "self-employed" staff. Equally, there can be little doubt that 6 April is going to mark the first day of rising labour costs, training costs and tender prices across the industry.

ANDREW FOSTER



The situation before and after 6 April: how direct- and self-employed staff will be treated

Employment status	Now		After 6 April	
	Tax	NI	Tax	NI
PAYE	Deducted by employer	Class I employers and employees' contributions deducted	No change	No change
714	Paid gross via annual tax returns	No deductions, but Class II payable monthly or quarterly	No change	Class I employers' and employees' contributions will be deducted by agencies. No change for legitimate 714-holders not working through agencies
SC60	Deducted by employer at end of each job	No deductions, but Class II payable monthly or quarterly	No change	Class I employers and employees' contributions will be deducted by agencies. No change for legitimate SC60 workers not working through agencies