

Remain in France Together

Bitesize Guide



Employed or self-employed?

We receive a lot of queries in the RIFT Working Across Borders group asking whether it is possible to declare yourself self-employed in France whilst working for a UK employer.

The simple and unequivocal answer to the scenario as presented above is 'No' that is not legal.

The fact that people asking the question tend instinctively use the term employer and employee to describe the relationship between the two parties should really tell you all you need to know. Often, people would not think to question this relationship in the UK but because they are thinking of working remotely in France and because they want to avoid 'bureaucracy', they try to redefine the relationship.

However, if the situation between the two parties is less clear-cut than this read on:

What is the relationship between the two parties?

This is the question you need to be able to answer in all circumstances. This includes a situation where you are already self-employed and working for other customers.

Scenario 1:

I run a dog walking and grooming service from Monday to Friday. I have many clients (and even more dogs) and I do grooming either at my premises or in the client's homes. On Saturday I stack shelves at Leclerc.

In this scenario, I don't think anyone would have difficulty seeing that I am genuinely self-employed most of the time but, as regards the job I do on a Saturday, I am an employee.

Scenario 2:

I run a dog walking and grooming service from Monday to Friday. I have many clients and I do grooming either at my premises or in the client's homes. On Saturday I do dog grooming at the 'Pampered Pooches' salon.

In this scenario, even though the work is much more closely related, I am still an employee of 'Pampered Pooches'. They find the clients and take the bookings, they supply the premises and equipment and they dictate my hours of work and how much the client is charged etc.

Scenario 3:

I run a dog walking and grooming service from Monday to Friday. It is doing OK but I would like to earn a bit more. I approach 'Pampered Pooches' and we come to an



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arrangement whereby I can offer services at their salon on a Saturday. I set the range of services offered and the prices and I bring my own equipment and they take commission for providing the space and dealing with the bookings. I am still self-employed 100% of the time.

The rules concerning employment versus self-employment are not that dissimilar to IR35 in the UK. You need to prove that you are genuinely self-employed in relation to each of the contracts you are undertaking.

The scenarios above could have all sorts of other variants e.g. 'Pampered Pooches' advertises for an employee but agrees to do a deal with me instead. Much might depend on whether they were a chain with lots of people doing the same job as me or whether they are a small business that can be more flexible and also save money via a subcontracting arrangement.

What kind of contract is there between the two parties?

If you have a contract of employment, regardless of whether it is permanent, temporary, zero hours or whatever, you are an employee.

In other situations, you will have a different type of contract as a service provider and the key thing, from both HMRC and the French perspective is that you can prove your independence and there is not a 'lien de subordination' between you and the company.

The company will have just as much of a vested interest as you in ensuring the relationship is correctly described because, otherwise, they could have HMRC and/or their auditors on their back.

In France you would normally have a 'contrat de prestation de services' with a major client. For any contract worth more than €5000 a French client should require you to produce an 'attestation de vigilance'. This is something you would get from URSSAF that shows you are properly registered and you are up-to-date with social security contributions. The other requirements are quite similar to those used in the UK - how much autonomy do you have about how and when you do the work, can you subcontract, do you provide your own tools to do the job etc.

Even if you ultimately draft a contract with the company in English, you will find it useful to investigate what clauses are normally included in a typical 'contrat de prestation de services' to ensure that you have thought about all of these points. You can find typical contracts online, here is one [example](#)¹.

If you have thought about all of the headings in such a contract in relation to your future relationship with your client and are able to answer them, then you will be satisfied as you can be that the relationship will stand up to scrutiny.



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What if I have previously been employed by the company?

This is a very common scenario: people want to move to France and keep on doing the job they are already doing. An employer who is very happy with you might easily agree to this without fully understanding the implications for them and you.

There is nothing to say you can't have a new type of relationship with someone who has previously been your employer but you have to be particularly careful in the circumstances. If you previously did a very similar job as an employee, and especially if they are your main or only customer, you will have to jump through more hoops to ensure that the change in the relationship is a genuine one and that you are running a correctly registered business with a viable business plan that doesn't just rely on a single customer.

Even where your previous employer is willing to change the nature of the relationship and take you on as a contractor, things may not be easy from their end either. They will have to satisfy HMRC and their own auditors. In the case of large organisations (universities is a case that crops up frequently) they may face all sorts of difficulties with their trade unions as well if they appear to be replacing permanent employees with contractors.

What are the risks of getting it wrong?

The French authorities are very concerned about the existence of '[travail dissimulé](#)' (and HMRC is no longer far behind). The emphasis is usually on employers who fail to declare workers properly and make the relevant social security contributions, uphold workers' rights etc hence the worker is often seen as an innocent victim.

In the case where you are registered as self-employed in France, you are more likely to be seen as complicit in the deceit and risk penalties yourself as well.

You should also remember that, even within the EU, there is social security coordination **not** harmonisation. France and the UK have different approaches to healthcare, pensions, unemployment benefit etc. By not paying the right contributions now, you may find yourself in considerable difficulty at some point in the future when you need to rely on a system that doesn't quite work the way you think it did.



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References

1. This is a blog post rather than an official information source but it gives a useful outline of what is expected in a French contract for services between two businesses:
<https://www.captaincontrat.com/articles-droit-commercial/contrat-de-prestation-de-services-clauses-obligations>
2. The official French website outlining what is understood by 'concealed working' and the penalties:
<https://www.urssaf.fr/portail/home/les-risques-du-travail-dissimule.html>

Disclaimer

This is one of a series of guides and information sheets produced by Remain in France Together (RIFT). RIFT is a statutory association governed by French law and managed and run by volunteers. It exists to uphold the rights of British citizens living in, or moving to, France affected by the UK withdrawal from the EU.

The information is for general guidance and does not constitute legal advice. It is offered free for personal, non-commercial use.

The main source of information to keep up-to-date with developments in citizens' rights is our website <https://www.remaininfrance.fr/>

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