

## LEGAL EMPLOYMENT STATUSES (APPLICABLE IN THE UK'S GIG ECONOMY)

### SELF-EMPLOYED

Also known as independent contractor, freelancer, or micro-entrepreneur.

A person is self-employed if they are in business for themselves and enter into contracts with clients or customers to provide work or services for them.



Example of platform classifying gig workers as 'self-employed':  
**TaskRabbit**

### WORKER

Also known as 'limb (b) worker' and can be understood as a 'dependent contractor'.

A 'worker' is registered as self-employed, but provides a service as part of someone else's business. They generally must carry out the work personally, rather than being able to send someone in their place. Their contract is not with their own client or customer, but with another party (ie a platform).



Example of platform with gig workers that have been reclassified as 'workers':  
**Uber**

### (AGENCY) WORKER

Generally, an agency worker has a contract with an agency, but works temporarily for a 'hirer' – a person or company with employees.

After 12 weeks, they are entitled to the same rights as employees of the hiring company, but it is the agency that is responsible for their pay and administering statutory employment rights.



Example of platform with gig workers that have been reclassified as 'workers':  
**Staff Heroes**

### EMPLOYEE

There is no universal definition of an employee in the UK, but an employee is understood to be a person who is contracted directly by a company. The employee will work to the terms within an employment contract (ie agreed pay, annual leave, and working hours), and will carry out the work personally.



There are no examples of platforms classifying gig workers as employees in the UK, but in the US an example is:  
**Managed by Q**

## RIGHTS UNDER EMPLOYMENT LAW

Employment law doesn't cover self-employed people in most cases because they are in business for themselves (ie their own boss).

However, if a person is self-employed:

- They still have protection for their health and safety and, in some cases, protection against discrimination.
- Their rights and responsibilities are set out by the terms of the contract they have with their client.

- At least the National Minimum Wage
- Protection against unlawful deductions from wages
- Statutory minimum level of paid holiday
- Statutory minimum length of rest breaks
- Not obliged to work more than 48 hours on average per week, or to opt out of this right if they choose
- Protection against unlawful discrimination
- Protection for 'whistleblowing' (reporting wrongdoing in the workplace)
- Equal treatment if working part-time

From Day 1, an agency worker has the same rights as those in the 'worker' category. Additionally, agency workers have the same rights as colleagues employed by the hiring organisation to access shared facilities and services (such as the canteen or work transport).

From 12 weeks, an agency worker has the same rights as colleagues employed by the hiring organisation. However, the clock resets each time they start at a new place of work.

All of the rights that 'workers' have and:

- Statutory Sick Pay
- Statutory Maternity, Paternity, Adoption, and Shared Parental Leave and Pay
- Statutory Redundancy Pay
- Minimum notice periods if their employment will be ending (ie if an employer is dismissing them)
- Protection against unfair dismissal
- The right to request flexible working
- Time off for emergencies

Some of these rights require a minimum length of continuous employment before an employee qualifies for them. An employment contract may state how long this qualification period is.

Employee Shareholder status was introduced in 2012, permitting the exchange of rights for company shares worth at least £2k. It will soon be abolished.

## TAX OBLIGATIONS

For tax purposes, there is no distinction between the self-employed (ie independent contractor) and a 'worker'.

The self-employed are obliged to register with HMRC as such, and to submit annual tax returns to pay income tax and National Insurance Contributions (NICs).\*

The self-employed pay NICs at a flat rate (Class 2) and at a rate of up to 9 percent depending on income (Class 4).

For tax purposes, there is generally no distinction between agency workers, employee shareholders, and employees.

Employers pay National Insurance Contributions (NICs) on behalf of their employees at a rate of 13.8 percent. This is done through the payroll system (PAYE).

Employees also pay income tax and NICs (at a rate of up to 12 percent depending on income) through PAYE.

## PENSION CONTRIBUTIONS

Not automatically enrolled into a pension scheme at any point.

May be entitled to state pension if paying National Insurance Contributions.

Those with 'worker' status may be entitled to auto-enrolment depending on their age and income. All 'workers' should be given the option of joining a workplace pension scheme. Depending upon the income of the 'worker' they may also be entitled to employer contributions to the pension.

Automatically enrolled into the employer's workplace pension scheme.

## SOCIAL SECURITY UNDER UNIVERSAL CREDIT (UC)

Where a person's earnings are established as coming primarily from a 'trade, profession or vocation' they will be classed as 'self-employed earnings' for UC purposes.

The self-employed (ie independent contractor) must then be recognised as 'gainfully self-employed' in an interview at a JobCentre Plus. Gainful self-employment is generally based on the idea that a person is in business for themselves and so, for example, should be able to produce a business plan.

There is an obligation to report earnings on a monthly basis once UC payments start to be received.

The Minimum Income Floor (MIF) applies after 12 months of self-employment, meaning that payments will be made based on an assumption that the claimant is earning a certain amount from self-employment (even if that's not the case ie because of unexpected fluctuations in income).

It is not clear whether a 'worker' will be considered as a self-employed 'independent contractor' or as an employee under Universal Credit.

An agency worker or an employee may be eligible for UC payments, depending on their income and personal circumstances.

There is no limit to the number of hours an agency worker or an employee can work to be eligible for UC. Instead, claimants working less than 35 hours per week (may vary, for those with caring responsibilities for example) are expected to increase their hours of work to continue qualifying for top-ups to their wages while in work. As claimants increase their earnings, UC payments will go down by 65p for every £1 earned.

For some recipients, a work allowance may be applicable, which is an amount of money an agency worker or an employee is allowed to earn before their UC payment begins to taper off.

\*HMRC will be requiring the self-employed to report income on a quarterly basis once 'Making Tax Digital' comes into effect.

Source: Compiled by the RSA from various sources. Mainly based on information from gov.uk & support from LITRG.