

0300 4000 1000 / contact@workrightscentre.org

Employment Rights in the United Kingdom

What Should You Know?

WoRC
Work Rights Centre

Contenidos

Type of employment status
Contracts
Holiday Pay and Sick Pay
Redundancies
Q & A and Resources

Most Common Employment Statuses

1

Employee

2

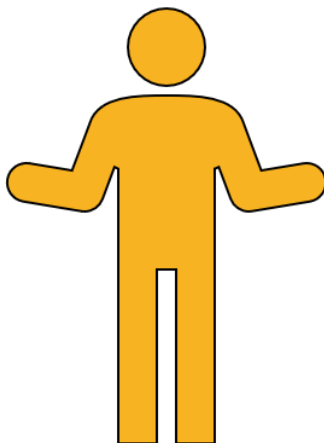
Self – Employed
(Freelancer or Contractor)

3

Worker

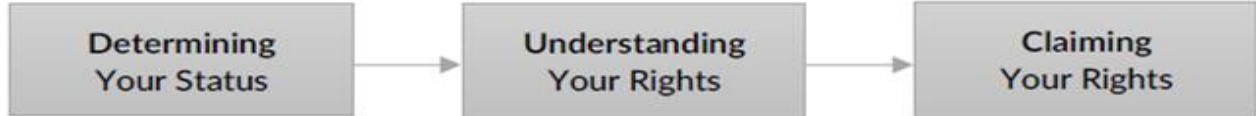
extra

**Agency
worker**



It can be determined by:

- the type of employment contract they have.
- the way they get paid who is responsible for paying their tax.
- their rights and responsibilities and those of the employer



Employment Rights	Employment status		
	Employee	Worker <i>Agency, Zero-hours, Casual</i>	Self-employed
Protection from discrimination	✓	✓	✓
Safe working environment	✓	✓	✓
National Minimum Wage or above <i>£8.72 (age 25+), £8.20 (21 to 24), £6.45 (18 to 20)</i>	✓	✓	
Contract and itemised payslips	✓	✓	
Protection from unlawful deductions of wages	✓	✓	
Rest breaks	✓	✓	
Paid annual leave	✓	✓	
Statutory sick pay	✓	✓	
Maternity / paternity pay	✓	✓	
Maternity / paternity leave	✓		
Redundancy pay	✓		
Tax Responsibilities	Employee	Worker	Self-emp.
Income Tax and NI contributions paid for you by your employer	✓	✓	
Have to pay your own Income Tax and NI contributions			✓

1 Employees

Someone is an employee if:

- have an employment contract from the employer, formed when the individual accepts the job.
- tend to be provided regular work by the employer.
- are employed to do the work personally not by someone else.
- Receive payslips where it show NI No contribution and Income tax paid amongst others.

Rights:

- written terms (a 'written statement of employment particulars') outlining your job rights and responsibilities, as a minimum.
- sick, holiday and parental leave pay being able to claim redundancy and unfair dismissal after 2 years' service.

2 Self - Employment

Someone is a self – employed (freelancer) if:

- Is responsible for how and when they work.
- It is also called a freelancer or sole trader.
- Invoice for their pay.
- Gets contracts to provide services for clients.
- Is able to send someone else to do the work for you, if appropriate.
- Is able to work for multiple clients and he/she establishes the price.
- Does **not** get paid holiday or sick leave.

Rights:

- protection for your health and safety on a client's premises.
- protection against discrimination.



Bogus Self - Employment

Bogus Self – Employment is determinate by looking at the following indicators below. A genuinely self-employed person normally:

- Takes on the financial risks of business failure and profits from business success;
- Is responsible for their own expenses.**
- Is not paid 'wages' and is not entitled to the National Minimum Wage.**
- Pays their own tax and national insurance.**
- Is not subject to a formal 'performance appraisal' process by the organisation for which they work, either directly or via customer review or 'feedback'.
- Is not tightly controlled as regards the way tasks are performed.



- Does not get sick pay.**
- Is not subject to a disciplinary procedure.
- Cannot be 'sacked' or dismissed. Instead, **termination of an arrangement** of genuine self-employment will be on the basis of the commercial terms that were negotiated between the business and the service provider at the start of the transaction.

Source: <https://worksmart.org.uk/>

Your Company Name

Address 1
Address 2
Address 3
Address 4

INVOICE

To:

Customer Address 1
Customer Address 2
Customer Address 3
Customer Address 4

Invoice Date:
Invoice Number:
Client Reference:
Purchase Order:
DUE DATE: 22/01/19

Additional Information

Description	Quantity	Unit	Unit Price	Total

Sub Total £-
Discount £-

TOTAL AMOUNT £-

Invoice

Registered Address

Address 1
Address 2
Address 3

Contact Information

Name:
Phone:
Email:
Website:

Payment Details

Bank Name
Sort Code
Account Number

Employee No.	Employee Name	Process Date	National Insurance Number
1	Mr. A Bibby	30/09/2007	NY212121C

Payments	Units	Rate	Amount	Deductions	Amount
Salary	1.00	5000.0000	5000.00	PAYE Tax	1284.31
				National Insurance	292.55

Mr. A Bibby
 Bilail House
 260 Picton Road
 Liverpool

 L15 4LP

This Period	
Total Gross Pay	5000.00
Gross for Tax	5000.00
Earnings for NI	2904.00
Payment Period	Monthly

Year To Date	
Total Gross Pay TD	30000.00
Gross for Tax TD	30000.00
Tax paid TD	7706.20
Earnings For NI TD	17424.00
National Insurance TD	1755.30

Payslips Plus Ltd
 Tax Code: 522L Dept: Tax Period: 6 Payment Method: Cheque

Net Pay 3423.14

Payslip

3 Worker / casual, temporary worker

A worker:

- has a 'contract for services' (to do work or provide a service for a payment or reward).
- employed to do the work personally.
- has very little obligation to receive or do work (for example, a zero-hours contract where you're offered work on an 'as and when' basis) but should do work you've agreed to.

Employment rights including:

- National Minimum Wage.
- Paid holiday.
- Payslips
- Protection against unlawful discrimination.
- Protection for 'whistleblowing'.
- Not being treated less favourably if you work part time.

4 Agency Worker

An agency worker has the following basic rights:

Pay rights

- In many ways, an agency worker has the same pay rights as anybody to:
 - receive the relevant **National Minimum Wage** and National Living Wage
 - not have any unlawful deductions made from their pay
 - be paid on time and by the agreed method
 - receives payslips**
 - workplace pension after 3 months
 - protection against discrimination
 - sick leave**
 - holiday pay**

There are some differences.

- An agency worker's pay may **vary from assignment to assignment** - but it should be agreed before an assignment begins, and not be below the rate agreed in their terms and conditions and/or contract.
- Many agencies use **timesheets**. If a timesheet cannot be provided, the agency worker must still be paid, and it is the **agency's responsibility to establish what hours were worked**. An agency may only delay a payment to confirm what hours have been worked and only for a reasonable amount of time.
- An **agency worker must still be paid on time by their agency**, even where the agency has problems getting payment from the hiring organisation.
- The right to receive the same pay includes basic pay, holiday pay, individual performance-related bonuses, commission, overtime pay, allowances for working shifts or unsociable hours.
- The **right to receive the same pay does not include bonuses** linked solely to company performance or to reward long-term loyalty, expenses, pensions, sick pay, redundancy pay, or maternity, paternity, shared parental and adoption pay.



An agency worker has the same **holiday rights** as anybody.

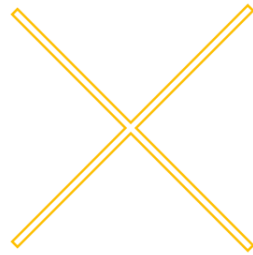
After passing the 12-week qualifying period, an agency worker has the right to receive the same amount of holiday leave and pay as staff directly employed by their hiring organisation.



Contracts

Self - Employed

Contract For Services



Employees

Particulars Of Employment

Workers

Written Statement Of Employment Particulars

Zero Contract Hours

If you have a zero-hours contract:

The employer does not have to give the worker any minimum working hours and the worker does not have to take any work offered.

Employment Rights:

- National Minimum Wage and National Living Wage
- paid holiday
- pay for work-related travel
- rest breaks at work
- rest between working days or shifts
- weekly rest periods
- The employer is responsible for:*
 - zero-hours workers' health and safety at work
 - paying their wages through PAYE, including tax and National Insurance (NI) deductions

Read your contract

Online Check Tool

<https://www.workrightscentre.org/your-work-rights/determine-your-status>

Holiday Pay

Workers are entitled to a week's pay for each week of statutory leave that they take.

Most workers are entitled to 5.6 weeks' paid holiday a year. You can use the holiday calculator to work out how much leave someone should get. <https://www.gov.uk/calculate-your-holiday-entitlement>

A week's pay is worked out according to the kind of hours someone works and how they're paid for the hours. This includes full-time, part-time, term-time and casual workers.

Sick Leave

Employees can take time off work if they're ill. They need to give their employer proof if they're ill for more than 7 days.

If they're ill just before or during their holiday, they can take it as sick leave instead.

Employees must give their employer a doctor's 'fit note' (sometimes called a 'sick note') if they've been ill for more than 7 days in a row and have taken sick leave. This includes non-working days, such as weekends and bank holidays.

Statutory Sick Pay (SSP)

You can get £99.35 per week Statutory Sick Pay (SSP) if you're too ill to work. It's paid by your employer for up to 28 weeks.

SSP is paid by the employer in the same way as your normal wages, for example weekly or monthly.

If someone have more than one job he/she may get SSP from each employer.

Statutory Sick Pay (SSP)

To qualify for Statutory Sick Pay (SSP) you must:

- be classed as an employee or a worker
- earn an average of at **least £120 per week**
- have been ill or self-isolating for at least 4 days in a row (including non-working days)
- How many days someone can get SSP for depends on why they're off work.

Agency workers are entitled to Statutory Sick Pay.

Redundancies

You have redundancy rights if:

- you're legally classed as an employee.
- you've worked continuously for your employer for 2 years before they make you redundant.

Redundancy Pay

How much redundancy pay you get depends on:

- your age
- how long you've worked for your employer

Redundancy pay is based on:

- your earnings before tax (gross pay)
- the years you've worked for your employer
- your age

If you're aged 22 or under

Your employer must give you half a week's pay for each full year you've worked.

If you're aged 22 to 41

Your employer must give you:

- 1 week's pay for each full year you worked after age 22
- half a week's pay for each full year you worked before that.

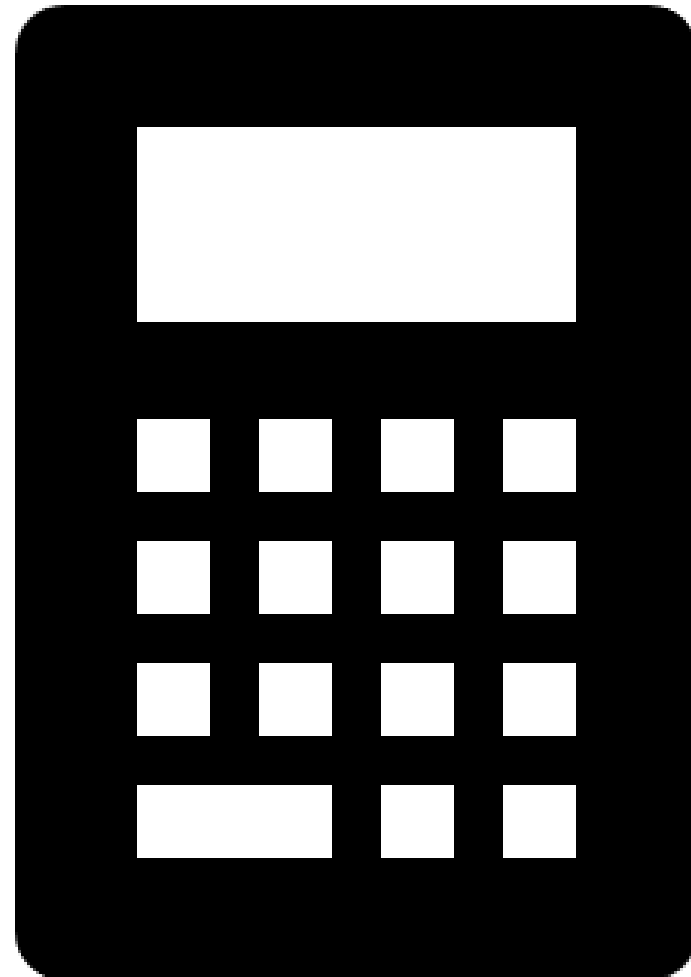
If you're aged 41 or over

Your employer must give you:

- 1.5 week's pay for each full year you worked after age 41
- 1 week's pay for each full year you worked when you were between 22 and 41
- half a week's pay for each year you worked before age 22

Your employer must tell you in writing how your redundancy pay has been worked out.

<https://www.gov.uk/calculate-your-redundancy-pay>



Redundancy Notice

If you're an employee being made redundant, by law your employer must:

- tell you a minimum amount of time in advance (give notice)
- keep paying you until you leave your job
- give redundancy pay, if you have the right to it

If you've worked for your employer for:

- 1 month to 2 years – the minimum notice is 1 week
- 2 to 12 years – the minimum notice is 1 week for each year you've worked
- 12 years or more – the minimum notice is 12 weeks

Consultations

If you're an employee affected by redundancies, by law your employer must consult you. This is even if you're not at risk of redundancy yourself.

By law they must meet you at **least once**. They might need to meet you more than once to make sure they can respond to your suggestions or requests.

Your employer **does not have** to make the changes you suggest. They do need to show that they've listened to you, considered your ideas and tried to come to an agreement.

You can appeal against redundancy if you believe your employer has not consulted you **fairly**.

Fair Selection

If you're an employee, you can only be made redundant if the job you're doing is no longer needed.

They cannot select you or use criteria that discriminates against you based on:

- age
- disability
- gender reassignment
- marriage or civil partnership status
- pregnancy or maternity leave
- race
- religion or belief
- sex
- sexual orientation
- family related leave – for example parental, paternity or adoption leave
- role as an employee or trade union representative
- membership of a trade union
- a part-time or fixed-term contract
- working time regulations – for example if you've raised concerns about holiday entitlement or rest breaks
- concerns you've raised about not being paid the National Minimum Wage

Q & A



Key Sources

- ❑ ACAS <https://www.acas.org.uk/>
- ❑ Gov.uk <https://www.gov.uk/>
- ❑ Kirklees Citizens Advice & Law Centre
<http://kcalc.org.uk/our-services/hkss-hong-kong-settlement-scheme/>
- ❑ Work Rights Centre Website <https://es.workrightscentre.org/>
- ❑ *Unions:*
- ❑ United Voices of the World (UVW)
<https://www.uvwunion.org.uk/es/>
- ❑ Independent Workers Union of Great Britain (IWGB)
<https://iwgb.org.uk/>
- ❑ Unison
- ❑ Unite <https://unitetheunion.org/>

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