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Types of Employment Status

When an employer hires someone, there are three main categories of employment that the new hire could fall within: An employee, a worker or a self-employed person. For each category, there are different legal rights and different tax and National Insurance contribution (NIC) requirements.

THREE MAIN CATEGORIES OF EMPLOYMENT

An **employee** is defined as someone who works for an employer under the terms of an employment contract, whether the contract is written, oral or implied.

A **worker** is more broadly defined than employee and includes any individual person who works for the employer, under a variety of contracts, not just employment contracts. Employees are workers but employees have more rights and responsibilities. Persons that fall under the worker category include casual workers, agency workers and some freelance workers (depending on the terms of their contract).

Self-employed persons typically are not covered by employment legislation because they are in business for themselves and are considered their 'own boss'. Some characteristics of self-employed persons are that they:

- have great control over how and when to deliver services
- provide services to multiple clients
- bear the financial risk of the business they operate
- are generally much more independent than workers and employees

Although these distinctions may sometimes seem confusing, the majority of the time, a person's employment status can be determined by looking at their contract:

Employee	Contract of Employment
Worker	Contract for the Personal Performance of Work
Self-Employed	Contract for Services

However, if there is a dispute concerning a worker's employment status or rights, an employment tribunal will make the final decision. Over the years, courts have devised several tests that examine the circumstances and aspects of each relationship in order to establish employment status. The following are five key tests that the court may consider:

- 1. Control:**
Whether the employer instructs the person on which tasks to perform and how.
- 2. Integration:**
Whether the person is part and parcel of the organisation.
- 3. Mutuality of Obligation:**
Whether the person is personally obliged to carry out the work and whether the employer is obliged to pay the worker for the work.
- 4. Substitution:**
Whether someone else can be sent by the hired person to do the job.



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5. **Economic Reality:**

Whether the person is in business on his or her own account (Does the person bear the financial risks of failure or stands to profit from his or her own sound management of the task?)

Recent trends have shown that courts apply a 'composite test', taking into account all relevant factors rather than just one individual test.

For more guidance on how to determine a person's employment status, please see the HM Revenue & Customs Employment Status Indicator: <http://www.hmrc.gov.uk/calcs/esi.htm>.



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