

## Uber outcome could be a disaster for UK PLC

Drivers for the popular taxi firm Uber learnt today at 2pm at the London employment tribunal that they would be entitled to employment rights and are legally considered to be workers and self-employed. As such they are entitled to rights such as holiday pay, sick pay and the minimum wage.

This landmark case has been watched closely by ContractorCalculator because the entire case rests on the courts interpretation of the workers status based on employment case law. And it's those laws that have underpinned the IR35 tax legislation since 1999.

There is no statutory definition of employment status. Instead the status of a worker is defined by employment case law, which is a set of rules laid down over decades of court cases. At tribunals if any new rules emerge, that effectively update the case law, these "case law precedents" then have a bearing on all future cases, including all IR35 tax status cases.

Uber has said it will appeal the decision.

### What has changed for contractors?

At this early stage we do not know exactly how it will affect contractors. The detail of the case will require thorough analysis to understand if there are new case laws precedents set that will make it easier for HMRC to consider a contractor as being employed for tax purposes and caught by IR35.

Commenting on the outcome of today's Uber case, Dave Chaplin, CEO of ContractorCalculator said: "This is the most high-profile court case concerning employment in recent years and today's ruling is a disaster for Uber who will now be faced with compensating its drivers retrospectively.

What's more, it is a disaster for UK plc as it is certain to open the floodgates for more workers to challenge their employers in pursuit of their rights from companies which operate a similar business model to Uber. It will also arm HMRC with the ammunition to attack genuine freelancers under the rules of IR35 and I would urge all self employed contractors to seriously consider their IR35 position."

In a [recent survey conducted](#) by ContractorCalculator's 80% of self-employed freelancers categorically said that they do not want any rights at all, 88% do not want maternity/paternity rights, 82% do not want sickness pay, 85% shun holiday rights and pay, 75% do not want to be forced into auto-enrolment of a pension, 80% do not want extra rights to help with grievances or disciplinary matters and 94% do not want any restrictions on hours worked and are happy to manage their own affairs.

Continues Chaplin: "The Uber case does not paint the full picture of self-employment and there are thousands of self-employed freelancers who are very happy with the way they work, they do not want rights and do not see themselves as vulnerable workers."

### Uber will appeal

The US taxi-hailing app company has responded to the tribunal ruling, which it points out is preliminary and will be appealed.

"Tens of thousands of people in London drive with Uber precisely because they want to be self-employed and their own boss. The overwhelming majority of drivers who use the Uber app want to keep the freedom and flexibility of being able to drive when and where they want. While the decision of this preliminary hearing only affects two people we will be appealing it," says Jo Bertram, Regional general manager of Uber in the UK.

### Uber decision must not discourage firms from engaging the self-employed says IPSE

Chris Bryce, IPSE Chief Executive, said: "Today's decision gives Uber drivers clarity around their relationship with Uber, subject to Uber's intended appeal. As far as IPSE is concerned self-employment means you're in control, and that must remain a positive choice. If companies want to control exactly how or when their workers do the actual work, they must not shirk their responsibility to provide employment protections and pay their employer's National Insurance Contributions too. If they want to engage workers on a freelance basis, then they must be business-like in that relationship.

"We will be studying the full judgement carefully to consider its implications, but this ruling may have an impact on the wider gig economy.

The recently launched review of employment practices takes on even greater urgency and importance in light of today's ruling.

"However, Government must be careful not to dissuade firms from making use of the highly-skilled, on-demand flexible workforce as a whole. The vast majority of people who work this way made an active choice to do so and cherish their self-employed status. Research shows independent professionals innovate faster than any other group, and brought £109 billion to the UK economy in 2015."

More to follow...

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