

Employment Status: Uber loses in the Supreme Court

In an important case on employment status, the Supreme Court has confirmed today that drivers for Uber are classed as ‘workers’ (as had previously been determined by the lower courts).

The key points in the Judgment are that:

- Uber had argued that its drivers should be treated as self-employed subcontractors. However, the Court confirmed that a tribunal should always examine the reality of the relationship between the parties, and not be bound by what the documentation states. In this case, the tribunal was entitled to find that the drivers were workers.
- from the moment they switch on their apps and are available for work in their area, to the time when they switch their apps off, the drivers are classed as ‘workers’.

As the drivers for Uber are being classed as workers, this entitles them to a certain level of rights under English employment law. It means that they are entitled to claim:

- the minimum wage, with their minimum wage claims being based on their full working day (not only when they had a passenger in their vehicle).
- backpay of minimum wage for up to two years or £25,000 (whichever is the larger) in the employment tribunal (up to 6 years’ backpay in the County Court).
- 5.6 weeks’ paid annual leave each year (the same as employees).
- Protection from whistleblowing legislation.

Whilst the Judgment confirms that Uber drivers can avail themselves of the minimum level of rights that ‘worker’ status confers, the Judgment also confirmed that a line is drawn between workers’ rights and the enhanced package of rights enjoyed by employees, such as the right to a statutory redundancy payment or to claim unfair dismissal.

If you are an employer or individual that has been affected by today’s Judgment and would like to discuss it further, please contact [Aaron Heslop](#) in our [Employment](#) team on 020 7689 7209 for a free confidential initial consultation.