

## **ILEX - Employed or Self-employed**

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Take these notes to the Lecture - first read and précis  
Part A of 'Employment Issues' by ILEX and/or  
Chapter 16 of 'GCSE Law' by Jacqueline Martin.

**1**

## **Rules of the Lecture**

- Read and précis BEFOREHAND.
- Turn off your mobile.
- Raise your hand if you have a Q.
- Put your chair neatly under the desk after the lecture.

**2**

## **If you are employed ...**

You work for someone and are paid by them.  
However, this means the employer has to pay National Insurance - your taxes to the state etc. They may also have to pay out redundancy if there is no continuity of work.

- Some companies - particularly in the building trade - prefer to take on self-employed labour and leave them to pay their own taxes (no sick pay - holiday pay etc).

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## **Being self-employed suggests you have freedom ...**

However, there are problems:

- If you take ill - you don't get paid.
- You get no holiday pay - pension rights.
- You may not work everyday and thus get no income on those days.
- Vicarious liability issue.
- Statutory rights affected.

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### How do the courts decide?

In truth, there is no one method that gives a definitive answer. Various methods are used:

**The control test** - does the employer control the employee?

When this fails - an **organisational or integration test** is tried (What about a person working from home?).

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### How do the courts decide?

Multiple test - read and take notes on Ready Mix Concrete [1968].

- The workers work and gets paid.
- Some degree of control present.
- There must be no terms present which are contrary to the employment relationship. **Why did Ready Mix Concrete win?**

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### Agency Workers ...

This has caused problems of determination. Issues:

1. If the Agency provides workers rather than a specific one (often not an employee).
2. Where the employer pays the Agency and the Agency pays the employee - no employment.
3. Where tax and insurance are deducted at source.

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### Task to be undertaken

**Working with the person next to you draft a list of ways of determining the following:**

- Control Test.
- Organisational Test.
- Multiple Test.

Be prepared to present to the class.

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