

Employee or contractor?

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There are a range of factors that determine whether you're a contractor or not. This page will help you to understand the differences between employees and contractors. You'll also find out who to contact if you think your employer is incorrectly treating you as a contractor.

Contractors

Contractors run their own business and sell their services to others, unlike employees who work in someone else's business.

Contractors — sometimes called independent contractors, sub-contractors or subbies — generally use their own processes, tools and methods to complete the work. They usually negotiate their own fees and working arrangements, and can work for more than one client at a time.

Contractors have workplace rights and protections but have different responsibilities relating to insurance, taxation and superannuation.

Understanding contracts

If you are a contractor, you should understand:

- [how to negotiate a good contract](#)
- [the laws affecting contracts](#)
- [ways a contract can end](#)

Differences between an employee and a contractor

Whether you are an employee or a contractor depends on many different factors.

In general:

- **independent contractors** work for themselves and are their own boss
- **employees** work in someone else's business – the employer controls how, where and when they do their work, and pays them a wage

But you need to consider a range of factors when deciding whether someone is an employee or contractor.

To help you decide:

- check the [differences between employees and contractors](#) on the Australian Taxation Office website – this will help you to work out your business's [tax and super obligations](#)
- read the Fair Work Ombudsman's [independent contracting](#) page for the differences for workers – you'll also find information on minimum pay, working conditions and protections

If you're still not sure, you should consider getting independent legal advice.

If you believe your employer is incorrectly treating you as a contractor

Contact the:

- [Fair Work Ombudsman](#) – call [13 13 94](#)
- [Australian Building and Construction Commission](#) if you work in the construction industry (this could be [sham contracting](#)) – call [1800 003 338](#)

Labour hire workers

A labour hire worker from an agency can be either an employee or a contractor of the labour hire agency which provides the worker's services. If you engage a labour hire worker, you'll pay the agency a fee for their services.

The agency is responsible for providing their employees with employment entitlements such as leave.

5 common employee or contractor myths busted

Myth: People who do short-term work are automatically a contractor



Fact

Just because someone is hired for a few hours or a couple of days at a time, doesn't mean they're automatically a contractor. Both employees and contractors can be hired for:

Myth: Workers with an ABN are always contractors



Fact

Having an ABN is not the deciding factor of whether or not a worker is a contractor. Many factors of the working arrangement are relevant.

Myth: If someone provides an invoice for their work, it means they are a contractor



Fact

Just because a person submits an invoice, it doesn't necessarily mean they are a contractor. Other factors also need to be considered.

Myth: If most people in your industry are contractors, you should be too



Fact

Just because contracting arrangements are common in an industry, it doesn't necessarily mean that a particular person should be treated as a contractor.

Myth: There is a written agreement that says a worker is a

contractor, so they must be one



Fact

If a worker is legally an employee, having a written agreement will not:

Read next

[Find out what your rights and protections are as a contractor.](#)

→ CONTRACTOR RIGHTS AND PROTECTIONS

[Check your tax, insurance and super obligations as a contractor.](#)

→ CONTRACTOR RESPONSIBILITIES

[Understand your obligations when hiring an employee.](#)

→ HIRING EMPLOYEES