

How Do You Check You are a Contractor

(By Charles Power Editor-in-Chief, Employment Law Practical Handbook)

Often, you will need to determine whether or not a person you have engaged to perform work for your business is engaged as an employee or an independent contractor. A key factor pointing towards the worker being an independent contractor is that they are providing services to you in the course of carrying on their own business. Establishing whether a person is carrying on their own business can prove to be a difficult task...

But here are 13 tell-tale signs:

1. They advertise in the Yellow Pages.
2. They negotiate their own fees.
3. They take out their own personal indemnity insurance.
4. They have a business banking account.
5. They operate a business-based accounting system.
6. They use an ABN (although in past cases the Court has given this little weight).
7. They develop goodwill (name, brand or reputation) through their work.
8. They provide services to a number of different purchasers (although in a recent decision the Court said this was no different to that of casual or part-time employee working for a small number of employers).
9. They employ or sub-contract individuals to perform the work.
10. They use their own standard rates and terms and conditions of trade.
11. They are registered for GST.
12. They have their own systems for invoicing and payment, debt collection systems and budgeting.
13. They have their own business names or contract through an incorporated entity.