

Independent Person or Employee: Checklist

The following indicators **suggest** the person concerned is an **employee**.

- There is a written employment agreement covering the person's work.
- The person is not operating through a limited liability company.
- The person is solely responsible for personally providing services, and is unable to delegate/subcontract/substitute his or her personal services.
- The person is expected to perform services exclusively for the employer, and is not free to accept employment or perform work for others.
- Remuneration is assessed at an hourly/weekly rate, as opposed to a fixed fee for the completion of a full contract (or completed instalments of a full contract).
- The person is issued with a business card indicating an association with the employer, or is otherwise required to wear a uniform, or display logos or insignia on behalf of the employer on his or her vehicle.
- The employer pays ACC levies to cover the person, or deducts and remits PAYE, or other taxes, on behalf of the person.
- Holiday pay arrangements are made directly between the person and the employer.
- The person is expected to perform some or all of the services from the employer's premises.
- Rather than contracting for the person to produce a defined outcome, the person provides ongoing personal services, and simply charges an hourly/weekly rate.
- The person is expected to work defined hours.
- The person is not expected to have professional indemnity insurance cover.
- The person does not supply and maintain his or her own plant and equipment (including vehicle and computer), or a substantial amount of his or her own plant and equipment.
- A supervisor is assigned to oversee the person's work, and to assign tasks. The person is given little autonomy as to the completion of the tasks.
- The person is subject to disciplinary measures of the employer.
- The employer can summarily dismiss the person for serious misconduct, or terminate his or her engagement with notice for unsatisfactory performance.

The following indicators **suggest** that the person is an **independent person**.

- There is a written contract which stipulates that the parties do not intend to create an employer/employee relationship, and the person indemnifies the employer for employee-related claims by, or regarding, the individuals performing the work.
- The person is operating through a limited liability company.
- The person is not personally responsible for carrying out all work, but is entitled to delegate/subcontract/substitute his or her personal services.
- The person is free to accept employment from other sources, and is not expected to perform services exclusively for the employer.
- A “quote” and “purchase order” process is used, or a similar mode of determining contract fees, as opposed to payment at an hourly/weekly rate.
- The person is not issued with a business card indicating an association with the employer, nor is the person required to wear a uniform, or display logos or insignia of the employer on his or her vehicle.
- The employer does not pay ACC levies to cover the person, nor does the employer deduct and remit PAYE tax, or other form of taxes, on behalf of the person.
- The person is not necessarily expected to perform the services at the employer’s premises.
- The person is contracted to produce defined outcomes (for example, prepare management reports, oversee construction facilities, carry out defined maintenance projects), as opposed to providing on-going personal services, and simply charging an hourly rate.
- The person has professional indemnity insurance cover.
- The person is not expected to work defined hours. Providing the defined outcomes are produced by a specified date and time, the employer does not dictate the hours worked by the person.
- The person supplies and maintains his or her own plant and equipment (including vehicles, computers, etc), or at least a substantial amount of his or her own plant and equipment.
- The person has skills and qualifications that other employees of the employer may not necessarily have, and is given autonomy to complete assignments as he or she considers appropriate.
- The person is not subject to disciplinary measures by the employer.