

IS IT BETTER TO BE AN EMPLOYEE?

Compare the differences in workplace rights and conditions:

INDEPENDENT CONTRACTOR	EMPLOYEE
✗ No minimum wage	✓ Minimum wage (You can find this via the Fair Work website)
✗ No extra pay if working overtime or on weekends or public holidays	✓ Entitled to overtime pay and penalty rates on weekends and public holidays
✗ No paid leave	✓ Entitled to leave if sick or for holidays, often this leave is paid.
✗ Sometimes, no superannuation	✓ Employer must contribute to your superannuation
✗ Sometimes, no workers' injury compensation (WorkCover) unless you buy your own insurance	✓ Employer must pay for WorkCover insurance and you may receive compensation if you're injured at work
✗ If your client ends the contract, you cannot claim unfair dismissal at the Fair Work Commission	✓ If your employer fires you, you may be able to challenge it via the Fair Work Commission

Sometimes, employers tell their workers that they are independent contractors when they are actually employees. Bad employers deliberately do this to avoid giving workers the pay and conditions we all deserve. It can be unlawful.

I DON'T THINK I'M MEANT TO BE ON ABN. WHAT SHOULD I DO?

We can assist you if you think something is not right. You can:

- Call us on (03) 7009 6710
- Book an appointment by clicking Get Help on our website

Things you can do right now:

- Ask your boss for a written contract before you start
- Save any contracts, invoices, letters, messages and emails etc. related to your work
- Take notes of any meetings and phone calls with your boss, including the date and time
- Record all the tasks you have been told to do
- Record the dates, times, and location of every shift of work



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**SHOULD
I BE ON
AN ABN?**

UNDERSTANDING ABNs
IN THE WORKPLACE





WHAT IS AN ABN?

ABN means Australian Business Number. An ABN is a number that identifies a business (including some independent contractors) to the government, other businesses and community.

AM I AN INDEPENDENT CONTRACTOR OR EMPLOYEE?

Many people run their own business by providing their services to other people. For example, Sarah offers expert gardening services to many clients each week and charges each client a fee that she keeps for herself. Sarah is an independent contractor and may be entitled to have an ABN.

Other people work for a business owned by someone else. These people are employees and the business they work for is their employer. Employees should provide a Tax File Number (TFN) to their employer. Employers should not ask employees for an ABN.

There are factors that can help you tell the difference.

This checklist is a guide only. Whether you are an independent contractor or employee is not necessarily decided by the number of factors on either side. All factors have to be considered together. If you are unsure, the Migrant Workers Centre can help.



YOU ARE MORE LIKELY TO BE AN INDEPENDENT CONTRACTOR IF:	YOU ARE MORE LIKELY TO BE AN EMPLOYEE AND SHOULD PROVIDE YOUR TAX FILE NUMBER IF:
☐ You work for yourself – you have control over what work you do (For example, you can refuse clients if it's not a good time or too far for you)	☐ You work for someone else – your employer controls: 1. What you do and how you do it 2. What hours you work 3. Where you work (usually at the same place as your supervisor)
☐ You can offer services to different people at the times you decide	☐ You can't work for others during the hours your employer expects you to work for them
☐ You advertise your services to the public	☐ Your employer advertises its services
☐ You use your own tools and equipment	☐ Your employer gives you tools and equipment to use
☐ You can decide to pass on work to someone else (and to pay them)	☐ Your employer decides if they want someone else to do any part of the work
☐ Your client can end the contract if you don't do what was agreed	☐ Your employer can suspend or fire you for a number of reasons, such as the standard of your work or your behaviour
☐ You choose the uniform, if any	☐ Your employer gives you a uniform
☐ You get your own business cards	☐ Your business cards also have your employer's name on them
☐ You manage all your own tax and superannuation	☐ Your employer deducts tax from your pay and contributes to your superannuation
☐ You are paid when you send your own invoice, listing what tasks you did, to whoever agreed to pay you for your services	☐ Your employer pays you routinely for the hours you work, no matter what tasks you did
☐ You decide on your own to not work if you're sick or need a holiday, knowing you may lose income	☐ Your employer approves your sick leave and holidays after you let them know, which is often paid
☐ You pay for your own business costs such as buying insurance and you keep any profit after paying business costs	☐ Your employer pays for business costs such as your wages or insurance, and your employer keeps the profit
☐ You can lose money if there are problems with your work or the business does not go well	☐ You get paid regardless of the quality or quantity of your work (unless you are paid piece rates, commission or bonuses), and your employer bears the cost if the business loses money