

# Work Fine Detail is Vital

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Many farmers in the region are currently in the midst of the harvest season. Despite advances in technology, harvesting and picking is still relatively labour-intensive meaning a necessary influx of seasonal workers.

For many farmers, navigating the laws and regulations governing workers is a constant struggle. An important preliminary consideration in this process is whether the worker is an employee or an independent contractor. Whilst in most instances it is clear whether a worker is an employee or an independent contractor, a failure to correctly classify a worker can have significant consequences.

Whether a person is an employee or an independent contractor depends on the facts and circumstances in each case and the totality of the relationship between the parties. Generally, an employee is someone who is employed by a business to provide their labour. In contrast, an independent contract is a person contracted to provide services and achieve a particular result or complete a particular project. Factors indicating that a person may be a contractor rather than an employee include:

- Remuneration is according to results achieved, not according to the time worked;
- Often equipment is supplied by the person, not the principal (that is, the farmer);
- Work to be performed by the person may be delegated;
- The person may perform similar work for others;
- Freedom to choose how, when and where the work is performed;
- No provision for leave;
- Liability for the work performed rests with the person; and
- Importantly, the person incurs his or her own expenses and is responsible for income tax and insurances.



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Whether a person is an employee or contractor is relevant for the purposes of income tax, superannuation, pay and leave entitlements, workers' compensation, payroll tax and Fair Work prosecution. If a worker is misclassified as a contractor when they are in fact an employee, businesses can face significant penalties and charges including PAYG withholding penalties and super guarantee charges.

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