



 [Print whole section](#)

## Industry examples

Examples of the differences between employees and independent contractors in various industries.

### **Building and construction**



This shows the differences between an employee and independent contractor in the building and construction industry.

### **Cleaning**



This example shows the differences between an employee and an independent contractor in the cleaning industry.

### **Domestic painting**



This example shows the differences between an employee and an independent contractor in domestic painting.

### **Information technology**



This example shows the differences between an employee and independent contractor in the information technology industry.

### **Road transport**



This example shows the differences between an employee and

QC 50848

## Building and construction

This shows the differences between an employee and independent contractor in the building and construction industry.

**Published** 15 April 2024

### On this page

Employee

Independent contractor

## Employee

A concreter, Darren, works for a local residential building business. He pours concrete at new housing developments on behalf of the company. Darren and the business have a comprehensive written contract in place governing their relationship.

## Independent contractor

Sam has been engaged under a comprehensive written contract, by a local business to provide concreting services to a segment of its customer base. The business chose Sam because of his industry reputation in quality of his work and repeat business in this segment of the market.

See the differences in their worker characteristics:

- [Control over the work](#)
- [Integration](#)
- [Ability to delegate or subcontract the work](#)
- [Basis of payment](#)

- [Equipment, tools and other assets](#)
- [Commercial risks](#)

## Control over the work

### Darren

Darren is contractually required to:

- work at a job site from 5.30 am – 3.00 pm, Monday to Friday, and
- do any work reasonably asked of him within his duty statement.

Under the contract, Darren's supervisor has the right to oversee the quality of his work and ensure Darren is meeting his deadlines.

**Employee characteristic** – the business has control over the work.

### Sam

Based on the contract, Sam is not directly supervised and he does not have set working hours per day.

At any time, he can accept or refuse additional work.

**Independent contractor characteristic** – Sam has freedom in the way the work is done, subject to the specific terms in the agreement.

## Integration

### Darren

Darren undertakes a core function of the business – pouring concrete – which is essential to home construction.

**Employee characteristic** – Darren is integrated into the business; he is not operating independently of the business.

### Sam

Concreting services are not a core function of the business which has engaged Sam, being that of a labour-hire firm.

Sam does concrete work for a number of businesses that require knowledge of a particular service.

**Independent contractor characteristic** – Sam is operating his own business independently of the business which has engaged him, he is

not integrated in that business.

## **Ability to delegate or subcontract the work**

### **Darren**

Darren has been hired by the concreting business to undertake concreting work. Under the contract, he must personally perform the work requested of him.

**Employee characteristic** – Darren cannot delegate or subcontract the work.

### **Sam**

Sam does not need to personally complete the work himself. If Sam chooses, he can, pursuant to the contract, pay someone else to do the work; however, he remains responsible for meeting the specific results in the agreement.

**Independent contractor characteristic** – Sam can delegate or subcontract the work.

## **Basis of payment**

### **Darren**

Darren is contractually paid an agreed amount for each hour he works.

**Employee characteristic** – Darren is paid a price per item or activity.

### **Sam**

Sam will be paid the amount he quoted to provide the concreting service once he meets the specific results outlined in the agreement.

**Independent contractor characteristic** – Sam is paid for a specific result based on the quote he provided.

## **Equipment, tools and other assets**

### **Darren**

The business is contractually required to and does provide Darren with the concrete. Under the contract, Darren must provide his own tools to undertake the work.

**Employee characteristic** – the business provides the majority of the equipment, tools and assets required to complete the work.

## **Sam**

As specified in the contract, Sam is required to service these customers in response to a variable level of demand and maintain a high level of quality. Although equipment is not specified in the agreement, Sam provides a:

- concrete mixer
- wheelbarrow
- level
- shovel
- other tools required.

He is responsible for paying the concrete service bill.

**Independent contractor characteristic** – Sam provides the equipment, tools and assets required to complete the work.

## **Commercial risks**

### **Darren**

If a customer is unhappy with the work or the service Darren provides, they can make a complaint to the business. The business may take further action depending on the type of complaint. Darren is not personally responsible to the customer under the contract.

**Employee characteristic** – Darren takes no commercial risks.

### **Sam**

If Sam does not achieve the results specified in his contract, he will not be paid. He also risks the business seeking compensation from him if the business's reputation is harmed as a result of poor customer feedback.

**Independent contractor characteristic** – Sam takes commercial risks.

# Cleaning

This example shows the differences between an employee and an independent contractor in the cleaning industry.

**Published** 15 April 2024

## On this page

Employee

Independent contractor

## Employee

A cleaning business has a contract to clean a small office building. A cleaner, Catherine, who works for the cleaning business, cleans the building. Catherine and the cleaning business have a comprehensive written contract in place governing their relationship.

## Independent contractor

A cleaner, Karl, has entered into a comprehensive written contract to clean a small office building for one year.

See the differences in their worker characteristics:

- [Control over the work](#)
- [Integration](#)
- [Ability to delegate or subcontract the work](#)
- [Basis of payment](#)
- [Equipment, tools and other assets](#)
- [Commercial risks](#)

## Control over the work

### Catherine

Catherine is contractually required to:

- clean the building each weeknight from 6.30 pm – 10.30 pm
- carry out the cleaning work as instructed by the business.
- do any work within her duty statement

The cleaning business is contractually entitled to do regular checks to ensure Catherine's work is meeting the required standards.

Under the contract, the cleaning business assigns work to Catherine.

**Employee characteristic** – the cleaning business has control over the work.

## **Karl**

Karl has access to the building. Contractually, the cleaning work can be done at any time after office hours, from 6.00 pm until 8.00 am.

Under the contract, Karl will not be subject to direct supervision and can complete the cleaning work as he sees fit provided it meets the requirements of the agreement.

If Karl is offered additional cleaning work in the office building not covered by the existing agreement, he can either accept or reject this work.

**Independent contractor characteristic** – Karl has freedom in the way the work is done, subject to the specific terms in the agreement.

## **Integration**

### **Catherine**

Catherine undertakes a core function of the cleaning business; that is, cleaning of customers' offices. She is contractually required to wear a uniform with the business's name and logo when working.

**Employee characteristic** – Catherine is integrated into the cleaning business and is held out as an emanation of the business; she is not operating independently of the cleaning business.

### **Karl**

Cleaning is not a core function of the business Karl has contracted with. When carrying out the cleaning services, Karl is not required to wear a uniform suggesting any affiliation with the business.

**Independent contractor characteristic** – Karl is operating his own business independent of the business which has engaged him; he is not integrated in that business.

## **Ability to delegate or subcontract the work**

### **Catherine**

Under the contract, if Catherine cannot do her shift, she must organise for another cleaner (who also works for the business) to fill in.

Catherine needs to let the cleaning business know and they will pay the other cleaner for the extra shift.

**Employee characteristic** – Catherine cannot delegate or subcontract the work.

### **Karl**

The agreement is to clean the building. It does not specify who needs to do the work. If Karl chooses, he can pay someone else to perform the work.

**Independent contractor characteristic** – Karl can delegate or subcontract the work.

## **Basis of payment**

### **Catherine**

Under the contract, Catherine is paid an hourly rate for the rostered shifts she works each week. The cleaning business pays her each week based on what is in her timesheets.

**Employee characteristic** – Catherine is paid for the time worked.

### **Karl**

Karl quoted a set amount to clean the building. Payment is contractually conditional upon the building being cleaned to the requirements of the agreement and within the specified timeframe.

**Independent contractor characteristic** – Karl is paid for a specific result based on the quote he provided.

## **Equipment, tools and other assets**

### **Catherine**

Catherine uses the cleaning equipment and products which the cleaning business is contractually required to supply.

**Employee characteristic** – the cleaning business provides the equipment and assets required to complete the work.

## **Karl**

Karl uses his own cleaning equipment and products to complete the work, as required under the contract

**Independent contractor characteristic** – Karl provides the equipment and assets required to complete the work.

## **Commercial risks**

### **Catherine**

If Catherine damages anything when she is completing her work, she is contractually required to let the cleaning business know and it will pay to have the damage rectified.

**Employee characteristic** – Catherine takes no commercial risks.

### **Karl**

If Karl does not perform to the standard required or damages the office building under the contract, he can be held liable for any resulting losses.

**Independent contractor characteristic** – Karl takes commercial risks.

QC 101567

## **Domestic painting**

This example shows the differences between an employee and an independent contractor in domestic painting.

Last updated 16 April 2024

**On this page**

Employee

Independent contractor

## Employee

A domestic painter, Clarissa, works for a painting business on an ongoing basis. Clarissa and the painting business have a comprehensive written contract in place that governs their relationship. The business has told Clarissa she will be painting the interior of home units at a local retirement village for the next 4 weeks.

## Independent contractor

A domestic painter, Vince, has been engaged, under a comprehensive written contract, by a local retirement village to paint the interior of some of their home units.

See the differences in their worker characteristics:

- [Control over the work](#)
- [Integration](#)
- [Ability to delegate or subcontract the work](#)
- [Basis of payment](#)
- [Equipment, tools and other assets](#)
- [Commercial risks](#)

## Control over the work

### Clarissa

Clarissa is contractually required to be at the retirement village from 8.00 am – 4.00 pm, Monday to Friday.

Each morning the business instructs her about what work she will carry out that day. Clarissa must do any painting work it requests.

**Employee characteristic** – the painting business has contractual control over the work.

### Vince

Based on their agreement, Vince is responsible for preparing, priming and painting all interior walls of the specified home units in the colour the retirement village has requested. The retirement village requires Vince to complete the work during 5 January to 4 February between 7.30 am and 5.00 pm to limit disruptions, but Vince can choose how the work is undertaken. If the retirement village needs further work done, Vince can choose whether he completes the work (depending on what other jobs are booked at the time).

**Independent contractor characteristic** – Vince has freedom in the way the work is done, subject to the specific terms in the agreement.

## **Integration**

### **Clarissa**

Clarissa undertakes a core function of the painting business, being painting. She is contractually required to wear a uniform with the business's name and logo when working.

**Employee characteristic** – Clarissa is integrated into the painting business and is held out as an emanation of the business; she is not operating independently of the painting business.

### **Vince**

Painting is not a core function of the retirement village's business. Vince is not required to wear a uniform while conducting the painting services suggesting any affiliation with the retirement village.

**Independent contractor characteristic** – Vince is operating his own business independently of the retirement village; he is not integrated in the business of the retirement village.

## **Ability to delegate or subcontract the work**

### **Clarissa**

Clarissa has been hired by the business to do painting work and needs to personally perform the work requested of her.

**Employee characteristic** – Clarissa cannot delegate or subcontract the work.

### **Vince**

Vince does not need to complete the work himself according to the contract he has with the retirement village. He has an apprentice who will help in completing the work on the retirement village. Vince pays the apprentice weekly for the hours he works.

**Independent contractor characteristic** – Vince can delegate or subcontract the work.

## **Basis of payment**

### **Clarissa**

Clarissa is paid an hourly rate for the time she works each week.

**Employee characteristic** – Clarissa is paid for the time worked.

### **Vince**

Vince will be paid the amount he quoted to paint the interior of the home units once the work is completed to the required standards and timeframe.

**Independent contractor characteristic** – Vince is paid for a specific result based on the quote he provided.

## **Equipment, tools and other assets**

### **Clarissa**

Clarissa uses the painting business's tools, equipment and materials, which the business is contractually required to provide

She drives her own ute to and from the worksite each day. The painting business requires Clarissa to have her own transport.

**Employee characteristic** – the contract provides the equipment, tools and assets required to complete the work. The ute is not being used to perform the work.

### **Vince**

As specified in the contract, Vince is required to provide the tools, equipment and materials required to complete the job.

**Independent contractor characteristic** – Vince provides the equipment, tools and assets required to complete the work.

## **Commercial risks**

## Clarissa

If Clarissa does a sub-standard job, the painting business is responsible for the work completed. The business will tell Clarissa to fix the problem, but contractually she will:

- do the work during her standard working hours and the painting business will pay her for those hours
- use the painting business's equipment, tools and materials to rectify the poor workmanship.

**Employee characteristic** – Clarissa takes no commercial risks.

## Vince

If the standard of work does not meet the required standards, Vince will need to rectify the poor workmanship at his own cost.

**Independent contractor characteristic** – Vince takes commercial risks.

QC 101564

# Information technology

This example shows the differences between an employee and independent contractor in the information technology industry.

**Published** 15 April 2024

## On this page

Employee

Independent contractor

## Employee

A software engineer, Ahn, works for a large tech business. He designs, develops, tests and installs software programs. Ahn and the tech business have a comprehensive written contract in place governing their relationship.

## Independent contractor

A software engineer, Sara, enters into a contract with a retail business to design, develop, test and install a new software program.

See the differences in their worker characteristics:

- [Control over the work](#)
- [Integration](#)
- [Ability to delegate or subcontract the work](#)
- [Basis of payment](#)
- [Equipment, tools and other assets](#)
- [Commercial risks](#)

## Control over the work

### Ahn

Under the contract:

- the business allocates work to Ahn and tells him the completion due date
- Ahn must complete the work according to the business's established protocols, guidelines and quality standards.

**Employee characteristic** – the business has control over the work.

### Sara

The contract states the new software program needs to:

- be operational within 6 months
- complete specific software releases by set dates
- meet the retail business's requirements and specifications.

Sara is able to determine how the work is completed.

Sara can choose whether she undertakes future projects for the retail business.

**Independent contractor characteristic** – Sara has freedom in the way the work is done, subject to the specific terms in the contract.

## **Integration**

### **Ahn**

Ahn undertakes a core function of the tech business, being the design, development, testing and installation of software programs.

The business is contractually required to provide Ahn with business cards bearing its name and logo. Ahn is to provide these to customers as is appropriate.

Ahn is contractually required to use the signature block developed by the business in email correspondence, which includes the business name and logo.

**Employee characteristic** – Ahn is integrated into the business and is held out as an emanation of the business; he is not operating independently of the business.

### **Sara**

Software development and installation is not a core function of the retail business. Sara is not provided with business cards and is not contractually required in her electronic communications with third parties to use a signature block provided by the retail business.

Sara has her own website which promotes her services. She has another project to do after the contract with the retail business is completed.

**Independent contractor characteristic** – Sara is operating her own business independently of the retail business, she is not integrated in that business.

## **Ability to delegate or subcontract the work**

### **Ahn**

Ahn is required to complete tasks as assigned to him by the business. If Ahn is running late in meeting a project deadline, he may be able to organise other software engineers who work for the business to

undertake aspects of his work, depending on their workloads. The business pays the other software engineers.

**Employee characteristic** – Ahn cannot delegate or subcontract the work.

## **Sara**

The contract does not stipulate Sara must personally complete the work and focuses on the result to build and install software. Sara can pay someone else to complete the work.

**Independent contractor characteristic** – Sara can delegate or subcontract the work.

## **Basis of payment**

### **Ahn**

As Ahn has recently completed his degree, the business has agreed contractually to pay him a higher annual salary. They pay Ahn fortnightly for the agreed standard hours he works plus any agreed overtime.

**Employee characteristic** – Ahn is paid for the time worked.

### **Sara**

Sara quoted a price to design, develop, test and install the new software program. Sara will be paid progress payments upon specific stages of the project being satisfactorily completed.

**Independent contractor characteristic** – Sara is paid for a specific result based on the quote she provided.

## **Equipment, tools and other assets**

### **Ahn**

Ahn uses the computer equipment and software contractually provided by the business. On occasion, as agreed with the business, Ahn will work from home using his laptop to write the end-user documentation and operational procedures.

**Employee characteristic** – the business provides the majority of the equipment and assets required to complete the work.

## Sara

Sara uses her own computer equipment and software, as is required under the contract. At designated stages of the project, Sara will also use the retail business's computers for short periods of time.

**Independent contractor characteristic** – Sara provides the majority of the equipment and assets required to complete the work.

## Commercial risks

### Ahn

If there are faults in the work, or it is not completed on time, Ahn is not personally liable under the contract. The business would need to pay to correct the problem.

**Employee characteristic** – Ahn takes no commercial risks.

### Sara

If the software program does not meet the retail business's agreed requirements or does not perform to specification, Sara is contractually required to correct the problem at her own expense.

**Independent contractor characteristic** – Sara takes commercial risks.

QC 101565

## Road transport

This example shows the differences between an employee and an independent contractor in the road transport industry.

**Published** 15 April 2024

### On this page

Employee

Independent contractor

## Employee

A truck driver, Ralph, works for a food manufacturing business and transports its products long distances to retail outlets across Australia. Ralph and the food manufacturing business have a comprehensive written contract in place governing their relationship.

## Independent contractor

A truck driver, Toni, who leases a refrigerated truck, enters into a contract with a local seafood business to transport its products during the busy Christmas period.

See the differences in their worker characteristics:

- [Control over the work](#)
- [Integration](#)
- [Ability to delegate or subcontract the work](#)
- [Basis of payment](#)
- [Equipment, tools and other assets](#)
- [Commercial risks](#)

## Control over the work

### Ralph

The food manufacturing business contractually requires Ralph to:

- make deliveries according to its monthly schedule and procedures
- complete and submit a logbook documenting his driving hours and kilometres travelled
- do any work which is reasonably asked of him
- not use the truck to do other work

**Employee characteristic** – the food manufacturing business has control over the work.

### Toni

The seafood business's products must be delivered for the period 1 November to 24 December in a specified delivery region.

Provided the deliveries are made on the required day, Toni can determine how and in what order the deliveries are made.

Toni can undertake work for others during the period 1 November to 24 December.

Toni can accept or refuse additional work from the business.

**Independent contractor characteristic** – Toni has freedom in the way the work is done, subject to the terms in the contract.

## **Integration**

### **Ralph**

Ralph undertakes an ancillary function of the food manufacturing business, being the transport of the food rather than a core function. However, he is contractually required to wear a uniform with the business's name and logo when working. The truck Ralph drives to transport the food is also emblazoned with the business's name and logo.

**Employee characteristic** – Ralph is integrated into the food manufacturing business and is held out as an emanation of the business; he is not operating independently of the food manufacturing business.

### **Toni**

Toni is undertaking an ancillary function of the seafood business, not as core function. Further, she is not contractually required to wear a uniform while undertaking deliveries for the business. Nor is the truck she is using required to carry any identifying marks of the seafood business.

**Independent contractor characteristic** – Toni is operating her own business independently of the seafood business.

## **Ability to delegate or subcontract the work**

### **Ralph**

Ralph is required to undertake the deliveries himself. If Ralph is unavailable, he needs to let the food manufacturing business know so it can organise and pay a replacement truck driver.

**Employee characteristic** – Ralph cannot delegate or subcontract the work.

## **Toni**

The contract does not stipulate that Toni must personally make the deliveries. She can organise for another suitably-licensed truck driver to make the deliveries but is responsible for paying the other truck driver.

**Independent contractor characteristic** – Toni can delegate or subcontract the work.

## **Basis of payment**

### **Ralph**

Ralph is contractually paid:

- an agreed amount per kilometre he drives
- for the number of kilometres he has travelled each month.

**Employee characteristic** – Ralph is paid a price per item or activity.

### **Toni**

Toni is contractually paid to transport the business's products during 1 November to 24 December, and will receive an agreed amount per delivery made as per the contract and initial quote. She will issue an invoice and receive payment from the seafood business.

**Independent contractor characteristic** – in the context of the contract, when considered as a whole, between Toni and the seafood business, she is paid for a specific result based on the quote she provided.

## **Equipment, tools and other assets**

### **Ralph**

The food manufacturing business is contractually required to provide Ralph with a refrigerated truck for his delivery schedule (it may be a different truck each time).

Under the contract, Ralph is required to use the food manufacturing business's fuel card to purchase fuel at participating fuel stops along the route as required.

**Employee characteristic** – the food manufacturing business provides the assets required to complete the work.

## **Toni**

Toni will use the refrigerated truck she leases to make the deliveries.

Toni purchases fuel with her own money from any outlet she chooses. She is not contractually reimbursed for the petrol used.

**Independent contractor characteristic** – Toni provides the assets required to complete the work.

## **Commercial risks**

### **Ralph**

If the refrigeration in the truck breaks down, the food manufacturing business is contractually responsible for the cost of any spoilt stock. The business has taken out the relevant insurance.

**Employee characteristic** – Ralph takes no commercial risks.

### **Toni**

If the refrigeration in the truck breaks down, Toni is contractually responsible for the cost of any spoilt stock. Toni has taken out the relevant insurance.

**Independent contractor characteristic** – Toni takes commercial risks.

QC 101566

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