

Australia Independent Contractor Compliance Guide

As of August 26, 2024, Australia uses the Whole Relationship Test to determine the nature of the relationship between an individual and a company. The Whole Relationship Test examines the business relationship's actual, practical reality and true nature. All parts of the relationship are discussed, such as the terms of the contract and how the contract is performed. The factors that make up the whole relationship test may be found with their explanation below:

Amount of Control Over How Work Is Performed

ICs have a high level of control over their work, including their hours, work location, and how they work. If someone performs work under the direction and control of management, including work location, hours, and how the work is done, this points to a traditional employment relationship.

Financial Responsibility and Risk

ICs carry the risk of making a profit or loss on each task or job. Since ICs operate on their own, they are personally responsible for poor work, or any injury sustained while performing the task. This is also why ICs must carry their insurance policies. In a traditional employment relationship, the financial risk is the responsibility of the business.

Tools and Equipment

Businesses provide their traditional workers with tools and equipment. However, ICs provide their own.

Ability to Delegate or Subcontract

Uniquely, ICs can delegate or subcontract their tasks to another person or business. In traditional employment relationships, the workers must perform the tasks they are hired to accomplish themselves.

Hours of Work

ICs are free to decide what hours to work to complete the specific task by agreement between both parties. Workers with a traditional employment relationship are assigned shifts or specific days to work.

Expectation of Work Continuing

Since ICs operate as their own businesses, they are usually engaged for a limited, specific task. This allows ICs the opportunity to work for multiple clients. If there is a clear ongoing expectation of work, the worker cannot work for various clients, which is more indicative of a traditional employment relationship.

While there is not one deciding factor, all factors must be considered in relation to each other. If the factors do not weigh in favor of an independent contractor business relationship, the worker must be deemed for traditional employment under the Fair Work Act ss15AA-15AD.

