

New Zealand Independent Contractor Compliance Guide

New Zealand has four legal tests to determine if someone is an independent contractor. First, the intention test helps determine the true nature of the parties' relationship. Second, there is the control vs. independence test. An independent contractor must be able to control their work, time, and location. Independent contractors also work without supervision or direction.

Next is the integration test. This examines whether the candidate's work is fundamental to the organization. Generally, work performed by an independent contractor is only supplementary to the business.

Lastly, there is the fundamental/economic reality test, which involves looking at the total situation of the working relationship to determine its economic reality as an independent contractor is a person in business on their own account. Please see below for a full breakdown of each test.

The Intention Test

The intention test determines what the parties intended their relationship to be, but sometimes cannot determine the true nature of the relationship. The intention test evaluates the wording of the written agreement. Regular workers have an employment agreement and receive holiday pay, while an independent contractor will have a contract for services and no holiday entitlements.

The Control vs. Independence Test

Businesses can exercise greater control over their regular workers' project content, hours, and methods. The greater the control over the work content, hours, and methods, the more likely a person does not qualify as an independent contractor. Independent contractors have greater freedom to choose who to work for, where to work, when to work, the tools to use, and so on.

The Integration Test

The Integration Test examines whether the work that the worker performs is fundamental to the business organization. Independent contractors perform services that are supplemental to the business. Regular workers do the type of work commonly done by other regular workers, have continuous engagements, and work for the company's benefit rather than to benefit themselves.

Independent contractors are generally brought on for one-off projects, do not integrate with teams or regular workers, and work with their own equipment. Integration into a business will weigh against a worker being classified as an independent contractor.

The Fundamental/Economic Reality Test

It is imperative that an independent contractor is a person in business on their own account. The Fundamental/Economic Reality test analyzes the total situation of the working relationship to determine its economic reality. If the worker is not in business on their own account, their fundamental and economic reality is likely a regular worker.

Some factors that are examined during this test are if the worker pays tax directly to the Inland Revenue Department ("IRD"), is registered for Goods and Service Tax ("GST"), pays their own

Accident and Compensation Corporation (“ACC”) Levies, works for profit, and even if the independent contractor has other workers who can assist with the project. Suppose a worker handles their own taxes directly and works for profit, therefore taking on the financial risk of participating in business independently. In that case, they are likely an independent contractor.

While none of these tests individually indicate whether a worker is an independent contractor, all results must be examined and weighed against each other to determine the proper worker classification. TCWGlobal provided individualized assessments for each worker. That way, you can be confident that your independent contractors are correctly classified and that you comply with local ordinances.