



# INFORMATION FOR CONGREGATIONS

## CONTRACTING SERVICE PROVIDERS

Supporting Church activities through the engagement of contractors is not uncommon. Outreach programs, community engagement, special programs, building and garden maintenance may be resourced by hiring contractors rather than employing workers as employees.

Working with contractors offers many advantages including tailored services, timely delivery, transparent project work with defined timeframes, flexibility and simpler administration.

It is important to understand that engaging a contractor comes with many obligations. To understand these obligations, it is critical that both parties are clear about the terms of the arrangement of services to ensure the correct payments, occupational health and safety (OH&S) compliance and that the contractor is in fact, not an employee.

A written contract must be in place between the congregation and contractor to determine:

- the relationship, deliverables, entitlements, payments, and safety obligations;
- the status of the provider (i.e. that the contractor is not an employee); and
- whether superannuation payments apply.

### A. DEFINITIONS: CONTRACTORS AND EMPLOYEES

The following definitions outline the key features of the two common types of contractors and those of an employee. It is important for congregations to be aware of these differences in order to formalise the most appropriate arrangements with service providers. Congregations who do not establish legal engagement/contracts in writing with service providers run significant risks including back payments for superannuation, OH&S breaches, risk to safety of children and/or incorrect payments.

#### 1. Contractor – company

Key features:

- has multiple clients;
- provides labour through a hire company (Pty Ltd);
- uses own equipment;
- has freedom to perform service or negotiate own hours.

Examples – Jim's Mowing/Robert Half labour hire company/React Property Maintenance/DMJ Accounting/KPMG Accounting/Spiffy Clean Commercial Cleaning

#### 2. Independent contractor – sole trader

A sole trader operates as a single entity, which means they share a single Tax File Number (TFN) and Australian Business Number (ABN).

Key features:

- has multiple clients;
- performs labour to further own business;
- uses own equipment;
- has some freedom to determine how, where and when work is done subject to reasonable direction.



Examples – musician, choir leader, yoga teacher, training facilitator, independent bookkeeper, handyperson, cleaner, or gardener

### 3. Employee

Key features:

- provides services only to the Church;
- is directly recruited and selected by the congregation;
- uses the congregation’s equipment;
- works according to the hours, location, duties and tasks determined by the congregation;
- serves the Church and performs the job duties (under the position description) as a representative of the Church;
- is subject to the congregation’s legal right to reasonably direct where and when work is done.

Example – staff paid via the payroll system: Centralised Accounting Payroll Service (CAPS)

## B. SUPERANNUATION OBLIGATIONS

Payment of superannuation is a taxation responsibility. The legal responsibility lies with the congregation. Through the CAPS, superannuation entitlements are paid to all employees. Superannuation payments increase from time to time and CAPS monitor and ensure the correct payments are made.

Superannuation payments apply to sole traders.

The table below outlines the criteria related to superannuation payment that the congregation must make directly into a nominated superannuation fund.

No superannuation payment required	Pay superannuation if the engagement meets all the following criteria
They are a company, partnership or trust.	They are a sole trader.
They employ or sub-contract someone else to complete the job on their behalf.	They don't sub-contract someone else to complete the job on their behalf.
Less than half the dollar value of the contract is for their labour.	More than half the dollar value of the contract is for their labour.
Someone else can do the job from the same company if they need a replacement.	No one else can do the job from the same company.
They provide a product or project. Payment is dependent on achieving a specified result.	You pay them to provide their labour. Payment isn't dependent on achieving a specified result.

## C. RESOURCES

Australian Taxation Office <https://www.ato.gov.au/businesses-and-organisations/hiring-and-paying-your-workers/employees-treated-as-independent-contractor/difference-between-employees-and-independent-contractors>

Fair Work Commission <https://www.fwc.gov.au/>

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