

PREDOMINANT CHARACTERISTICS

- Freelance individual, business or corporation that pursues business activity on their own account
- Can fully determine what work to carry out, the way in which it is done, the time, the place etc
- Has invested own capital/is exposed to an element of risk
- Can delegate work to others, depending on client contracts
- May work for more than one company/organisation
- Uses own tools, equipment as appropriate.
- Remuneration paid on GST invoice basis

- A freelance individual conducting business in his/her own right
- Receives a rate which is all inclusive of their entitlements
- Can fully determine what work to carry out, the way in which it is done, the time, the place etc
- Has invested own capital/is exposed to an element of risk
- May be able to delegate work to others, depending on client contracts
- May work for more than one company/organisation
- Uses own tools, equipment as

- Individual employed directly as a temporary employee of a recruitment services company and supplied or “on-hired” to an end user client
- Has a degree of dependence similar to that of employee but often engaged on a ‘casual as required’ basis
- Less evidence of control and mutuality of obligations than between employer and employee
- Remuneration paid by recruitment services company inclusive of entitlements

**INDEPENDENT CONTRACTOR
(incorporated or unincorporated)**

**FREELANCE INDIVIDUAL
(PAYG contractor)**

**LABOUR HIRE CONTRACTOR
(temporary contractor, flex worker, temp, labour hire or on-hired worker)**

KEY RIGHTS

- State and Federal discrimination legislation*
- *Fair Work Act 2009* (Cth) (limited to sham contracting and adverse action)
- Workplace health and safety legislation*
- Workers’ compensation legislation (limited to unincorporated contractors)
- Superannuation legislation (limited to unincorporated contractors)
- *Independent Contractors Act 2006* (Cth)
- *Competition and Consumer Act 2010* (Cth)

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- *Competition and Consumer Act 2010* (Cth)
- Modern Awards (if applicable)

- State and Federal discrimination legislation*
- *Fair Work Act 2009* (Cth)
- State and Federal long service leave legislation*
- Modern Awards (if applicable)
- Enterprise Agreements (if they specifically cover contractors or they are between the recruitment services company and their client)
- Workplace health and safety legislation
- *Superannuation Guarantee Charge Act 1992* (Cth)
- Workers’ compensation legislation*

**Note: For details of the relevant legislation, please see below*

Summary of applicable legislation

Legislation	Federal	State
Discrimination	<i>Sex Discrimination Act 1984</i> <i>Racial Discrimination Act 1975</i> <i>Age Discrimination Act 2004</i> <i>Disability Discrimination Act 1992</i> <i>Australian Human Rights Commission Act 1986 (and Regulations 1989)</i> <i>Fair Work Act 2009</i>	NSW - <i>Anti-discrimination Act 1977</i> VIC - <i>Equal Opportunity Act 2010</i> WA - <i>Equal Opportunity Act 1984</i> SA - <i>Equal Opportunity Act 1984</i> QLD - <i>Anti-Discrimination Act 1991</i> ACT - <i>Discrimination Act 1991</i>
Long service leave	<i>Long Service Leave (Commonwealth Employees) Act 1976</i>	NSW - <i>Long Service Leave Act 1955</i> VIC - <i>Long Service Leave Act 1992</i> WA - <i>Long Service Leave Act 1958</i> SA - <i>Long Service Leave Act 1987</i> QLD - <i>Industrial Relations Act 1999</i> ACT - <i>Long Service Leave Act 1976</i>
Workplace health and safety	<i>Work Health and Safety Act 2011</i> <i>Work Health and Safety Regulation 2011</i>	NSW - <i>Work Health and Safety Act 2011 (and Regulations)</i> VIC – <i>Occupational Health and Safety Act 2004 (and Regulations 2007)</i> WA – <i>Occupational Health and Safety Act 1984 (and Regulations 1996)</i> SA – <i>Work Health and Safety Act 2012 (and Regulations)</i> QLD – <i>Work Health and Safety Act 2011 (and Regulations)</i> ACT - <i>Work Health and Safety Act 2011 (and Regulations)</i>
Workers' compensation	<i>Workers Compensation Act 1987</i> <i>Safety, Rehabilitation and Compensation Act 1988</i>	NSW - <i>Workers Compensation Act 1987 (and Regulation 2010); and Workplace Injury Management and Workers Compensation Act 1998</i> VIC - <i>Workplace Injury Rehabilitation and Compensation Act 2013</i> WA – <i>Workers Compensation and Injury Management Act 1981</i> SA – <i>Return to Work Act 2014 (and Regulations 2015)</i> QLD – <i>Workers' Compensation and Rehabilitation Act 2003 (and Regulations 2014)</i> ACT – <i>Safety, Rehabilitation and Compensation Act 1988, Workers Compensation Act 1951 (and Regulation 2002)</i>

Note: The above legislation is current as at June 2016 and may be amended or replaced from time to time.