

EMPLOYING *Staff* IN AUSTRALIA

Hiring your first employee is a major step—and one of the biggest compliance risks for new businesses. In Australia, how you engage a worker determines your legal obligations, tax responsibilities, and overall cost structure.

There are three main ways to engage workers:

- Full-time or part-time employees
- Casual employees
- Independent contractors

Choosing the wrong structure (even unintentionally) can lead to penalties, back payments, and legal issues—so it's critical to understand the differences.



FULL-TIME & PART-TIME EMPLOYEES

(Permanent Staff)

What it means

Permanent employees are engaged on an ongoing basis.

- Full-time: Typically 38 hours per week
- Part-time: Regular, predictable hours (less than full-time)
- Covered by the Fair Work Act, National Employment Standards (NES), and usually an Award or Enterprise Agreement

Employer obligations

As an employer, you must:

- Pay at least the minimum Award wage
- Pay superannuation (11.5% as of 2025)
- Withhold and remit PAYG tax
- Provide paid leave entitlements:
 - 4 weeks annual leave (pro-rata for part-time)
 - 10 days personal/sick leave (pro-rata)
 - Parental leave (if eligible)
- Provide paid public holidays (if ordinarily worked)
- Provide notice of termination and redundancy pay (where applicable)
- Maintain workers' compensation insurance
- Issue payslips and keep proper records
- Comply with Fair Work laws and the NES

When this model works best

- Core roles essential to the business
- Positions requiring consistency and accountability
- When you need strong control over how, when, and where work is performed

Pros



- Stable and reliable workforce
- Easier performance management and training
- Builds long-term business capability

Cons



- Higher fixed costs (wages, leave, redundancy exposure)
- Less flexibility during downturns
- More administrative compliance



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CASUAL EMPLOYEES

What it means

Casual employees are engaged on an as-needed basis with no firm advance commitment to ongoing work.

- No guaranteed hours
- Work can vary week-to-week
- No paid leave entitlements

Employer obligations

You must:

- Pay a casual loading (usually +25%) instead of leave entitlements
- Pay superannuation (same as permanent employees)
- Withhold PAYG tax
- Provide workers' compensation insurance
- Comply with Award rates and Fair Work laws

Important: Casual Conversion

Under current laws, many casual employees have the right to:

- Request conversion to permanent employment after 12 months, and
- Employers may also have obligations to offer conversion in some circumstances

Failing to manage this properly is a common compliance issue.

When this model works best

- Seasonal or unpredictable demand
- Hospitality, retail, events, and project-based work
- Trialing staff before offering permanent roles

Pros



- High flexibility
- Easier to scale workforce up or down
- No paid leave liabilities

Cons



- Higher hourly cost due to loading
- Less employee loyalty and retention
- Conversion obligations can create long-term commitments



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INDEPENDENT CONTRACTORS

What it means

Contractors operate their own business and provide services to you.

- They typically invoice you
- They are not employees
- They are generally not entitled to employee benefits

The key issue: It's about reality, not labels
You cannot simply choose to treat someone as a contractor.

Courts and regulators look at the actual working relationship, including:

- Who controls how the work is done
- Whether they supply their own tools/equipment
- Whether they can delegate or subcontract work
- Whether they bear financial risk
- Whether they work for multiple clients
- Whether they operate with an ABN and invoice

If it looks like an employment relationship in practice, it will likely be treated as one—regardless of what the contract says.

Employer obligations (important nuances)

You should:

- Use a written contractor agreement
- Ensure the contractor has:
 - A valid ABN
 - Their own insurance (e.g. public liability, professional indemnity)
- Not withhold PAYG unless no ABN is provided
- **Be aware:** You may still need to pay super if the contractor is paid mainly for labour (this is a common trap)

When this model works best

- Specialist or technical services
- Short-term or project-based work
- Work that is clearly external to your core operations

Pros



- Flexibility
- Lower payroll administration
- No leave or termination obligations

Cons



- High risk of misclassification
- Less control over how work is performed
- Not suitable for ongoing, core roles



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MAJOR RISK: SHAM CONTRACTING

What is it?

Sham contracting occurs when a business:

- Misrepresents an employee as a contractor
- Pressures someone to obtain an ABN and invoice
- Terminates employment to rehire as a contractor

Why it matters

This is illegal under the Fair Work Act, even if done unintentionally.

Potential consequences

- Back payment of wages, leave, and entitlements
- Superannuation liabilities
- PAYG tax issues with the ATO
- Significant financial penalties and fines



This is one of the most common and costly mistakes made by new business owners.

This guide is general information, not legal or tax advice.



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QUICK COMPARISON TABLE

Type	Hours	Leave	Super	PAYG	Control	Risk
Full/Part-Time	Fixed	Yes	Yes	Yes	High	Low
Casual	Flexible	No	Yes	Yes	High	Low
Contractor	Project-based	No	Usually No	Usually No	Low	High if misused

BEFORE YOU HIRE PRACTICAL COMPLIANCE CHECKLIST

Before engaging your first worker, ensure you:

- Register for PAYG Withholding with the ATO
- Set up Single Touch Payroll (STP)-enabled payroll software
- Register for and set up superannuation payments
- Take out workers' compensation insurance
- Identify the correct Award or Agreement
- Prepare compliant employment contracts or contractor agreements
- Set up proper record-keeping and payslip processes
- Get professional advice (accountant, HR, or legal) before hiring

FINAL ADVICE FOR BUSINESS OWNERS

If you're unsure, default to employment rather than contracting.

Most compliance problems arise from:

- Trying to "save costs" with contractors
- Not understanding Awards
- Poor payroll setup

Getting it right from the start is significantly cheaper than fixing it later.