

What are the different ways of working?



It is important to know whether you are a permanent or casual employee. The answer to this question will have a significant effect on your conditions of employment, including your pay.

A **permanent full-time worker** usually works 38 hours a week on a continual and regular basis.

A **permanent part-time worker** has continuous and regular work, and usually works less than 38 hours per week.

Permanent employees have continuity of employment, an expectation of ongoing work and are entitled to paid leave, such as (but not necessarily limited to) annual leave, personal leave (including sick leave and carer's leave), and parental leave (after 12 months service). Part time employees will accrue these benefits on a pro rata basis.

Permanent employees are also entitled to receive a minimum period of notice if they are terminated. This is based on the employee's length of service and must be given in writing.

A **casual worker** is usually employed on a short term basis. Their employment is temporary and irregular and there is no guarantee of ongoing work. Casual workers are not usually entitled to notice of termination, redundancy payments, paid annual leave, paid sick leave, paid carer's leave, or parental leave (however, there may be an entitlement to parental leave if the employee has at least 12 months of regular and systematic employment and a reasonable expectation of the employment continuing). In compensation for this, casual workers are paid an extra loading on top of the hourly rate that would be payable to a full or part time employee performing the same job (usually 20 - 25 per cent more). This casual loading is prescribed in a relevant award or by Fair Work Australia. Casuals are entitled to workers' compensation, and may be entitled to superannuation (see the Factsheet on Superannuation for more details). Casuals may also be entitled to long service leave if they have worked for a sufficient period for the same employer.

If you are a casual and you work very regular and consistent hours (for example, if you work to a regular roster), and you have a reasonable expectation that work will continue you may be eligible for the right to make an unfair dismissal claim.

Am I an outworker?

If you do paid work in a private home (away from your employer's workplace) you may be considered to be an outworker. Outwork can include clerical work, sewing, computer processing, child care, and food preparation. There are many outworkers in the clothing industry who work at home or outside a factory making garments or parts of garments.

As an outworker you are entitled to the same wages and conditions as workers in clothing factories. You may be covered by an award, or an agreement. You are also covered by the minimum conditions in the National Employment Standards.

Am I an employee or independent contractor?

There is a legal difference between being an employee, and being a contractor, or self-employed. Sometimes this can be quite unclear. It is important to get advice on this, as the legal definition is complex and affects your pay and entitlements. It is important to note that independent contractors are **not** covered by the National Employment Standards, are **not** covered by workers' compensation and cannot make a claim for unfair dismissal.

It is important to look at all of the circumstances of the work arrangement to decide whether someone is an employee. Generally, contractors use their own tools, have their own insurance and can decide how they will do a job and what they will charge.

If you answer 'yes' to the following questions, you may be an independent contractor:

- Are you conducting a business in your own right, or do you appear to the general public to be working on behalf of the person for whom you perform the work?



- Do you control the way the work is to be done?
- Can you sub-contract the work to others outside the organisation?
- Do you have the option of performing work for a variety of people rather than just performing work for only one person or business?
- Are you paid on a fixed price basis on the completion of the task (whatever time it takes)?
- Do you supply special equipment or tools for the job?
- Do you have your own workers' compensation and public liability insurance?
- Do you pay your own tax?



If you are not sure, you should get further advice, and don't sign any contract before getting advice.

What about CDEP?

Many indigenous people in remote communities are employed under the Community Development Employment Projects (CDEP) programme. Some CDEP participants also get extra money, called "Top-Up", if they participate in CDEP for more hours than required. If you get Top Up money, you are considered an employee, and then you have all the rights of an employee, such as leave entitlements, or the right to make an unfair dismissal claim.

Where can I get more help?

NT Working Women's Centre
Ph: 8981 0655
Freecall: 1800 817 055
Web: www.ntwwc.com.au

Your Union
Unions NT
Ph: 8941 0001
Web: www.unionsnt.com.au

The Fair Work Ombudsman
Local call: 13 13 94
Web: www.fwo.gov.au

Independent Contractors Hotline
Local call: 1300 667 850

Telephone Interpreter Service
Ph: 131 450

National Relay Service (for people with a hearing and/or speech impairment)
Ph: 133 677
Freecall: 1800 555 677



**The NT Working Women's Centre provides free and confidential information, advice and assistance to women about work related matters.
Contact us on 1800 817 055, or www.ntwwc.com.au**

Thanks to Chiggy's Place of Art & Design and Clayton Utz. The NT Working Women's Centre gratefully acknowledges the support of the Northern Territory Government in funding this factsheet. The information, opinions and advice contained have been prepared with due care and are believed to be correct at the time of printing. The publishers expressly disclaim any liability whatsoever to any person who suffers any loss arising from the contents of, errors in, or omissions from this publication. This factsheet is not intended as a substitute for legal advice. Please seek advice for further information about your situation.

Printed May 2010.

