



How Does Superannuation & Contracting Work?

Contractors who run their own business and sell their services to others have different obligations to their super than what employees in a business may usually have.

A contractor (also known as an independent contractor, a subcontractor, or a subbie) who is paid wholly or principally for their labour is considered to be an employee for super purposes, and may be entitled to super guarantee contributions under the same rules as other employees.

A contract may be considered ‘wholly or principally for labour’ if:

- **You’re paid wholly or principally for your personal labour and skills**
- **You perform the contract work personally**
- **You’re paid for hours worked, rather than to achieve a result**

If hiring a contractor to perform solely their labour for a fee, the employer may also have to pay super contributions on their behalf.

In this sense, if you are a contractor who is being contracted to an outside business than your own to perform your usual work or labour, your employer must contribute to your super the same way they would any other employee.

This could be seen in an example of an electrician who runs their own small business, or is employed by a small business who has been hired by another business to supplement their workforce and perform a specific role that they can fit to.

Take, for example, an electrician who runs their own business and has been subcontracted by a larger business.

They are performing labour but also providing materials (ie, themselves plus a toolbox plus a van full of powerpoints and wiring etc), they would be seen as a contractor and not an employee for super purposes. They must pay themselves super, in this case.

However if they are sub-contracted to perform labour only then the company that has sub contracted them may be liable to pay super on the amount that they pay to their contractor. This would be the case where the electrician just turns up with their tool box and everything else is provided by the "employer".

If they are in an employment-like relationship with the person that they entered their contract into, they may need to have their super paid to them by their contract employer. In order for super to be applied from what you earn, the contract must be directly between you and your employer. It cannot be through another person or through a company, trust or partnership.

It is important that both parties in the process are aware of their super obligations during the contracted period. There can be significant penalties for employers who use contractors if they fail to correctly pay super. Each case regarding contractors and super needs to be assessed independently to ensure that you are doing the right thing. There is no definitive black and white line between a contractor and a contractor in an employment-like relationship that can be obviously seen after all.

If you're unsure about whether or not you're meeting your obligations as an employer, or are a contractor looking to make sure their super is being correctly paid into, speak with us.

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