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FAQ How do I determine who are Workers' and Contractors' in terms of NSW Workers Compensation?

Owing to the complexities of employers' determining workers and contractors in terms of NSW Workers Compensation insurance, NSW WorkCover have now addressed this issue by developing two excellent facilities:

- The self-Assessment tool
- Private Ruling

How does the Self-Assessment tool work?

The self-assessment tool is a free-of-charge, convenient and confidential way for employers to seek indicative clarification about determining 'workers or employers being available on-line and in hard copy.

You can access the on-line tool as follows: by going to:

<http://selfassessment.workcover.nsw.gov.au/Rulings/RuleBurstInteractiveClient.aspx>

For a hard copy of the tool, contact the worker status service on 1800 024 205

We recommend you visit the NSW Work Cover site www.workcover.nsw.gov.au prior to completing the 'self-assessment tool' which provides a important information.

When completing the self-assessment tool, you should consider carefully the relationship between yourself and the person you are seeking clarification. Also, you must ask yourself 'what makes this person different from other workers?'

The Self-Assessment tool identifies the status of the person/s or entity through a series of questions, based on the information you provide which must be answered with honesty and accuracy. Once you have completed the Questionnaire, a report will be generated containing a decision as to the workers' status of the person or entity. It is important to remember however that the self-assessment tool *is designed to be used as a guide only, providing an indication only of the status.*

We suggest employers' complete the worker status self-assessment tool *before* submitting a private ruling application to WorkCover.

When should I apply for a Private Ruling and how do I obtain one?

Only after completing the self-assessment tool, if you find that you are still unsure or unhappy with the indication you have received as to status of the 'worker' or 'contractor', we recommend you undertake a private ruling to determine the person or workers status if:

- you disagree with the result, or
- your situation cannot be self-assessed, or
- you are still not certain about the result of the tool
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Unlike the self-assessment tool which provides an indication only, a 'private ruling' provides a *binding decision* of an employment situation as you have described it in your completed application form for the purposes of premium calculation.

Private rulings decide whether a person is a worker or contractor for premium purposes only and a ruling will not be provided for retrospective situations or that are not currently the subject of an employment relationship. Also, only employers or their delegated officers are able to lodge a private ruling application.



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Additionally, a private ruling does not impact upon a person's ability to lodge a workers compensation claim nor can it be used in any claims-related matters.

When applying for a private ruling the employer must complete the application form, sign it and attach any supporting evidence, such as the self-assessment tool indication you have obtained, copies of contracts or invoices and forwarding these to WorkCover by fax, email or post. For more information and assistance contact:

- WorkCover telephone hotline on 1800 024 205 (toll free)
- Email to: privaterulings@workcover.nsw.gov.au
- Fax to 02 9287 4358
- Post to Worker Status Rulings Branch, WorkCover NSW, Locked Bag 2906, Lisarow NSW 2252 the feedback section on this website

You can access 'Private Rulings' application (on-line version) via their website on:
<http://www.workcover.nsw.gov.au/forms/Pages/S175CPrivateRulingForm.aspx>

We welcome any further queries you may have in respect of this matter. We also recommend you contact WorkCover Assistance Service directly by calling ph: 13 1050 Fax: 02 9287 5491 (Monday to Friday Hours: 8:30am - 5:00pm).

Disclaimer:

This document provides general information only. Kelly & Coe Insurance Brokers Pty Limited do not guarantee that the information disclosed in this document is therefore complete or correct and we request you contact WorkCover for further details on telephone: 13-1050 or go to their website on: www.workcover.nsw.gov.au for additional information. This document does not represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. Please note that although all care is taken to ensure that the information is accurate at the time of its preparation and issue, it is important to remember that the relevant laws change over time and you should check the current legislation to ensure that the information is up to date at the time. Therefore, you must seek independent legal advice should you require assistance with regard to the application of the law to your situation.