



**Kelly & Coe Insurance
Brokers Pty Ltd**
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WORKER STATUS SERVICE

The Worker Status Service offers specialised assistance to help you determine who you need to include in your workers compensation policy.

<http://www.workcover.nsw.gov.au/insurance/workers-compensation-insurance-for-your-business/who-to-insure/workers-status-service>

WORKER OR CONTRACTOR TOOL

<http://workerstatus.workcover.nsw.gov.au/>

If you or your business has employees, you may need to include these people under your workers compensation policy.

Sometimes though, working arrangements are more complex and it is hard to determine whether someone you employ would be classified as a worker, deemed worker or contractor under workers compensation law.

The [Worker or contractor tool](#) helps you determine what kind of employee you have and whether you (or they) are responsible for their workers compensation cover.

The new online tool for employers is quick and easy to use, and helps take the guess work out of workers compensation obligations so you can get on with running your business.

PRIVATE RULINGS

The Worker Status Service also provides private rulings designed to determine the status of your employee (for workers compensation purposes).

A private ruling is a binding notice provided by us at your request. It determines if a person is a worker, deemed worker, or contractor for wage record and workers compensation premium calculation purposes.

There is no charge for this service.

A private ruling does not impact upon a person's ability to lodge a workers compensation claim and cannot be used in any claims proceedings.



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Applying for a private ruling

<https://www.workcover.nsw.gov.au/forms/s175c-private-ruling-form>

When applying, you must provide honest, accurate evidence based information in your [application form](#) and you should attach as much information about the situation as possible.

This information can include:

- invoices
- quotes for jobs
- certificate of currency
- subcontractor's statements
- registration of the business name
- ABN and GST details
- trade licence details
- advertisements, business cards.

The private ruling will apply to each person with the same employment situation. Where the situation varies (eg one person has an ABN and the other doesn't), you will need to lodge a separate application.

A private ruling is only valid while the employment circumstances remain the same, if things change, you must notify us.

Once you have received a private ruling your wage declaration should reflect the private ruling result and include wages if the decision indicated that the person is a worker.

If estimated wages change by more than 25 per cent as a result of the ruling within the current policy period, you need to notify your scheme agent because your premium will need to be adjusted.

You must keep the private ruling together with all the information on which the ruling was based with your wage records for five years.

CASE STUDIES

These two case studies below might help you determine your own worker's status. But remember, while these are based on real private rulings, every situation is different. You should give us a call if you're in doubt about your own situation.



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1) Transport industry case study

A delivery company is contracted to deliver parcels. The delivery company uses the services of a person to perform this task and the working arrangement was as follows:

- the person is an individual sole trader and does not have a registered business name
- they do not advertise for their business
- the person is registered for and charges GST to the delivery company
- the person does not employ others to assist with the work provided
- the person does not sub-contract any of the work to another party
- the person does not work for anyone else and invoices provided in the application were sequential for a significant period of time
- the rate of payment used is per parcel delivered set by the delivery company
- the person uses their own vehicle and lifting devices for work
- the vehicle is insured in the person and the persons' spouses name, indicating that the vehicle is not only used as a business vehicle but also used for private purposes
- the person does not wear a company uniform and there is no logo on the car
- a verbal agreement exists to correct mistakes made by the person, but the person is covered under the public liability policy of the delivery company
- the person does not hold insurance covering damage to goods under their control during the delivery process
- the person sets their own work practices and hours but all deliveries must be completed on the allocated day

On the basis of this information, a private ruling determined this person was a worker. While there was a range of indicators that might suggest the person was a contractor, they were deemed a worker because of:

- the continuing exclusive nature of the agreement
- the rate of pay being set by the company
- the person being insured under the company's public liability insurance

2) Construction industry case study

A specialist building company used the services of a person to complete specific jobs for projects. The working arrangement is:

- the person is an individual sole trader that does not have a registered business name
- they don't advertise for their business
- the person charges GST and is registered to the building company
- the person doesn't employ others to assist with the work provided
- the person is required to carry a specific trade license when undertaking work
- this license is not restricted allowing the person to do the work and supervise others
- the person provided detailed quotes outlining the goods and services to be provided, including the specific materials needed to produce the result
- payment terms were outlined on the quote and were based on the of completion of work
- the person determines their own work practices, hours and how the work is completed
- the person provides their own tools and equipment used in carrying out the work

On the basis of this information, a private ruling determined this person was a contractor.



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FURTHER INFORMATION

You can contact the Worker Status Service by:

- phone: 13 10 50
- email to: privaterulings@workcover.nsw.gov.au
- post to: Insurance Regulation Branch, WorkCover NSW, Locked Bag 2906, Lisarow NSW 2252.

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: <http://www.workcover.nsw.gov.au/insurance/workers-compensation-insurance-for-your-business/who-to-insure/workers-status-service> 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.