Sharefarmer, contractor or employee?

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There are big differences between an employee, a contractor and a sharefarmer, and there are implications for taxation, superannuation, workers compensation and other employment conditions.

According to the *Guide to employing labour on your dairy farm*, 'if you incorrectly categorise an employee as a contractor, you can expose yourself to major legal costs if the individual's status as a contractor is challenged at a later date'.

Farm owners should seek legal advice when considering any contracts or agreements with different types of employment.

An employee:

- supplies their labour for a set period of hours and a set wage
- is covered by an award, which specifies employment conditions and employee benefits
- takes direction from a manager or supervisor, and does not usually have control over decisions on farm management
- is entitled to annual leave, sick leave and other benefits
- has workers compensation, superannuation and taxation deductions paid by the employer
- does not supply significant capital to the business.

A sharefarmer:

- enters an agreement or contract with the farm owner to provide labour, management skills and some capital resources required to carry out agreed farm tasks
- has control over day-to-day decision making on the farm, usually in consultation with the owner
- shares income and splits costs with the farm owner, according to a prior agreement.

A contractor:

- is someone with whom you enter into a contract for a specific purpose and for a specified fee, where the contractor supplies the labour and, sometimes, machinery. You have very little control over how and when they do the work.

This option has become more popular and available in recent years, with most dairying districts now able to supply contractors for calf and heifer rearing, hay and silage making, the growing of crops (such as maize) for silage, and the milking of cows.

This can be a very good way to save labour and capital resources on the farm, especially the cost of expensive machinery. However, some guidelines need to be followed to ensure that contracting work on or off the farm satisfies the purpose for which it was originally intended.

Ensure that you have a written contract, clearly stating:

- the desired outcome of the contract – for example, that heifers will achieve a weight of 350 kilograms at 15 months of age, or that silage harvesting will commence on March 1st, weather permitting
- the costs that will be incurred. Payment should be made on successful completion of the contract, or by agreed progress payments as milestones are reached
- that the contractor bears all risk, and is responsible for losses due to poor workmanship or negligence
- the circumstances under which the contract may be terminated
- that the contractor must have all the necessary insurance cover.

NSW DEPARTMENT OF PRIMARY INDUSTRIES

The range of sharefarmer agreements

Type of agreement	Sharefarmer income share	Ownership of cows	Ownership of mobile plant	Responsibility for day-to-day management of herd & farm	Sharefarmer share of costs
50:50	50% milk sales 100% stock sales	Sharefarmer	Usually sharefarmer	Sharefarmer	Usually 100% of herd & shed costs and 50% of all farm costs
60:40	40% milk sales & 100% stock sales	Farm owner	Optional – sharefarmer or owner	Sharefarmer	Usually 40% of shed costs and brought in feed
66.6:33.3	33.3% milk sales 50% calf sales	Farm owner	Farm owner	Usually sharefarmer with some owner input	Usually 33.3% of shed costs

Source: National share dairy farming guidebook, Australian Dairy Farmers' Federation.

The following table shows how to distinguish between an employee and a contractor

Employee	Contractor
High level of control over worker	Low level of control over worker
Inability to delegate duties	Ability to delegate duties
Payment of 'wages' or 'salary'	Payment of a 'fee'
Regular working hours	Non-standard working hours
No out of pocket expenses	Out of pocket expenses
No commercial risk	Some commercial risk
Employee benefits	No employee benefits

Table from NSW Farmers Association 2007

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