

When is a contractor a contractor?

Employing People in agriculture is becoming an increasingly complex situation. HMRC are investigating farm businesses to confirm the employment status of workers. This involves an assessment of the payment terms and working obligations of those workers that the farming business considers to be self-employed contractors to ensure HMRC agree on their status.

Issues arise however when HMRC take the view that these 'self-employed contractors' are actually meeting all of the criteria of employees. In this situation, the farmer is liable and HMRC would demand a pay back of taxes and national insurance which in many cases would be a significant bill.

To avoid this large and unexpected bill, there are a number of ways that farm businesses can assess the status of workers and check that the lines between employees and self-employed contractors have not become blurred.

There are 5 main factors to consider:

Control - a self-employed person tends to decide when and how a task is performed whereas an employee will be more closely supervised and more likely to be given instructions by the employer.



Obligation - An employee is obliged to turn up each day and the farmer has to find work for them. A self-employed person has the right to say they are not coming next week because they are working elsewhere and equally the farmer can say that there is no work for them next week.

Payment - An employee is normally paid at fixed intervals e.g. weekly or monthly, whereas a self-employed person will raise invoices or a note of hours completed and rate due when a particular task is complete.

Equipment - An employee will normally only provide small tools or protective clothing with everything else being provided by the employer while for a self-employed contractor, they would provide most of the major pieces of equipment to perform their job.

Substitution - A self-employed person can usually send along a suitably qualified replacement to do the work, whereas an employee will have to do the work personally.

If the above information indicates that you have an employee rather than a self-employed contractor; it is imperative that you get yourself registered as an employer as soon as possible and follow the key steps to getting an employee 'on the books'.

This information is detailed in the practical guide – 6 steps to Employing People- which can be found at www.fas.scot.

