Workx Advocaten

FREELANCER OR EMPLOYEE? THE FACTORS AT A GLANCE

Whether someone works for you as a freelancer (zzp'er) or as an employee is not decided by the label on the contract. What matters is what the parties actually agreed and how the work is done in practice, taken as a whole.

01. HOW IS IT ASSESSED?

THE LAW: THREE ELEMENTS

Work	Pay	Authority

All three present? Then it is an employment contract (Article 7:610 of the Dutch Civil Code), whatever the parties choose. If one is missing, it is not.

STAGE 1

WHAT WAS AGREED?

First, the rights and obligations are established: from the contract and from how things work in practice. What the parties intended counts, as does their position in relation to each other.

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STAGE 2

IS THAT AN EMPLOYMENT CONTRACT?

Next, those rights and obligations are tested objectively against the statutory definition. What the parties *wanted* no longer plays a role. The factors below help with that test.

02. NINE FACTORS: THE KEY QUESTION FOR HIRERS

1 Nature and duration of the work

What kind of work is it, and is it a project with an end date or does it simply continue?

2 Working method and hours

Who decides on how the work is done and on the schedule: the worker or you?

3 Embedding in your organisation

Is the worker an outsider with their own assignment, or in fact part of the team like your staff?

4 Personal work or substitution

Must the worker do the work personally, or can they genuinely leave it to someone else?

5 How the contract came about

Was the contract genuinely negotiated, or presented on a take-it-or-leave-it basis?

6 How pay is set

Who sets the price, and does the way of paying resemble that of a business or a salary?

7 Level of pay

Does the amount fit a business, or an employee in a comparable position?

8 Commercial risk

Who bears the financial risk if things go badly or something goes wrong?

9 Acting as a business

Does the worker also operate as a business outside this assignment?

HOW IT IS WEIGHED

No fixed order
No single factor is decisive and the list is not exhaustive. Nor does acting as a business externally carry more or less weight from the outset.

Per person
The assessment concerns this worker in this relationship. The same work may therefore be an employment contract for one person and not for another.

Paper and practice
A contract alone is not enough: what counts is how things work in practice.

Based on the rules in force in 2025

This document does not constitute legal advice and is for illustrative purposes only.

NEED MORE TIPS OR ADVICE?

We are happy to help. Get in touch with us!