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Guide to Child Employment

AS AT SEPTEMBER 2019

How to use this guide

The laws regulating child employment vary between each State and Territory. Regardless of which law applies, employers should be mindful to implement best practice when employing children.

The information in this guide is of a general nature. It is not intended to be a comprehensive summary of the law and should not be relied upon as legal advice.

For more information

Phone: 1800 RETAIL (738 245)



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Queensland

This fact sheet provides information about the laws regulating the employment of children in Queensland.

Which laws regulate the employment of children in Queensland?

The *Child Employment Act 2006 (Act)* regulates the employment of children in Queensland.

The object of the Act is to protect children working in Queensland, by ensuring that work does not interfere with a child's schooling and by preventing children from performing work that may be psychologically, physically, socially, or morally harmful.

Who do the laws apply to?

The Act applies to the employment of all children under the age of 18. There is a particular emphasis on children who are of school age. A school aged child is defined as a child who is under 16 **AND** required to be enrolled at a school.

Examples:

- If a child is not yet 16 but has completed year 10 (and so is no longer required to be enrolled at a school) then the child is **NOT** a school aged child.
- If a child is 16 or over but has not yet completed year 10 then the child is **NOT** a school aged child.

A further distinction is made in relation to "young children". Young children are children not old enough to be of compulsory school age.

How old does a child have to be to work?

The *Child Employment Regulation 2016* prescribes that the minimum age for employing school aged and young children is 13 years, unless:

- the work is delivery work and the child is at least 11 years of age; or
- the work is voluntary work; or
- the work is in the entertainment industry.

For the purposes of the Act, "work" does not include:

- domestic chores;
- collections work; or
- work that is part of work experience, an apprenticeship, or a traineeship.

What hours can a child work?

Unless working in the entertainment industry or in a business owned by a close adult relative, a young child and a school aged child may not work within 12 hours of finishing their last period of work.

A school aged child may not work more than:

- 12 hours during a school week;
- 38 hours during a week that is not a school week;
- 4 hours on a school day;
- 8 hours on a non-school day.

A school week is a week that commences on Sunday where the child is required to attend school on any day of that week.

A young child may not work more than:

- 12 hours during a week; or
- 4 hours during a day.

School aged and young children may work no more than one shift per day, except where an industrial instrument permits it (see below).

Are there prohibited hours that a child cannot work?

Yes. School aged and young children must not work between the hours of 10:00pm and 6:00am. A school aged child who is at least 11 years but less than 13 years must not do delivery work between 6:00pm and 6:00am. Additionally, the school-aged child is prohibited from working if the child has already worked 4 consecutive hours and has not been given a break at the end of the fourth hour, or has already worked for a period of time on the day.

Are children required to be supervised?

Yes. A school aged or young child who does work involving the exchange of money or delivery work must be supervised. Supervision obligations are fulfilled if there is an adult in the near vicinity and in regular contact with the child.

Does parental consent need to be obtained before a school aged or young child can be employed?

Yes. Before school aged and young children can be employed, a parental consent form must be obtained.

A parent's consent form means an approved form signed by a parent of the child that includes:

- the child's date of birth;
- the name of the employer;



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- a statement that the parent consents to the child performing work for the employer; and
- for a school aged child, information about when the child is required to attend school.

A parent must complete a new form within 14 days of a change to the child's school hours. Employers must keep the signed consent forms on file.

Parents, for the purposes of the Act, include:

- the child's mother and father;
- people who exercise parental responsibility over the child;
- a person regarded as a parent under Aboriginal or Torres Strait Islander custom; or
- where guardianship has been granted to a person by the State, that guardian is the only legal parent of the child, regardless of the existence of biological parents.

Special Circumstances Certificates and Work Limitation Notices

Upon application, the Director General of the Department of Industrial Relations may grant a Special Circumstances Certificate. This certificate may authorise a child to:

- do work not otherwise permitted;
- do work during hours or in a way that would otherwise not be permitted;
- work without supervision;
- to work without the consent of a parent (when a child does not have a parent or lives independently of the parents).

An application may be made by the child or by an adult on the child's behalf and must be supported by the employer wishing to employ the child. Conditions may be imposed on the certificate and can be reviewed at any time.

The Director General can also issue a notice limiting the child's work (work limitation notice). This can be done in circumstances where the Director General reasonably believes the child's work is interfering with the child's education, health or safety or the child's physical, mental, moral or social development. Prior to issuing a notice the Director General must notify the employer. Appeals can be made against the refusal to grant a certificate and the issue of a work limitation notice within 7 days to the Queensland Industrial Relations Commission.

What are an employer's duties for employing children?

An employer must:

- take all reasonable steps to ensure that a child can contact a parent or nominated person in reasonable circumstances;



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- ensure that a parent or nominated person is contacted when a child falls ill or is injured at work;
- take all reasonable steps to ensure that the child is not subjected to deliberate, or unnecessary social isolation, or to any other behaviour that is likely to threaten, intimidate, frighten or humiliate the child;
- provide induction training, including workplace, health and safety training, appropriate to the child's age;
- display a copy of the "*Child Employment Guide*" in a place where it may be easily read by children employed at the workplace.

What are the record keeping requirements?

The child's employer must keep a record of:

- the name of the employer;
- the address where the child works;
- the child's full name, address and home phone number;
- the name, address and home and business phone numbers of the child's parents/guardian;
- the name, address and home and business phone numbers of a nominated person;
- the child's date of birth;
- the nature of the work the child is to perform; and
- a copy of any special circumstances certificate, parent consent form, or work limitation notice relevant to the child's employment.

For school aged and young children, the following records must be kept in addition to the above:

- the number of hours worked by the child per day and per week;
- the times the child started and stopped work;
- details of breaks taken by the child;
- the child's completed parental consent form.

For a child who is not a young or school aged child, the employer must obtain a copy of a form of identification stating the child's date of birth, issued under an Act or from the child's school.

Employers must keep all records for 2 years after the child ceases employment.

What happens if these laws are not complied with?

These laws are enforced by inspectors who are engaged to monitor compliance, investigate alleged contraventions and inform parents, children and employers of



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their rights and obligations under the Act. Proceedings for alleged breaches of the legislation will be heard by an industrial magistrate.

What can be done to ensure compliance with these laws?

To ensure compliance with this legislation, you may need to:

- introduce a workplace health and safety policy and procedure that addresses specific issues that school aged or young children may encounter in the workplace;
- implement an induction program, which can be tailored to the age of the child;
- assess your labour levels to accommodate the hours of work that school aged or young children are permitted to work;
- obtain a copy of the “Child Employment Guide”.



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New South Wales

This fact sheet provides information about the laws regulating the employment of children in New South Wales.

Which laws regulate the employment of children in NSW?

The Industrial Relations Act (NSW) 1996, the *Industrial Relations (Child Employment) Act 2006* (NSW) (**Child Employment Act**), and *Children and Young Persons (Care and Protection) Act 1998* (NSW) (**Care and Protection Act**) regulate the employment of children in New South Wales.

This legislation is supplemented by the *Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015* (**Regulations**).

The object of this legislation is to protect children working in New South Wales, by ensuring that work does not interfere with a child's schooling and by preventing children from performing work that may be psychologically or physically harmful.

Child Employment Act

Who does the Child Employment Act apply to?

The Child Employment Act applies to the employment of all children under the age of 18 where:

- a) The child is employed under an agreement or other arrangement that was entered into on or after 27 March 2006;
- b) The employer is a constitutional corporation that is not bound by a State industrial instrument with respect to the child; and
- c) A state award is in force that covers performing similar work to that performed by the child (a comparable State award) and that award does not bind the employer with respect to the child.

See *Industrial Relations (Child Employment) Act 2006*, section 4.

What are the minimum conditions?

An employer operating under the *Child Employment Act* must ensure that the child is provided with employment conditions that are the same as those apply under applicable State awards and legislation. If the employment conditions are different to these minimum conditions of employment, the conditions of employment provided must not, on balance, result in a net detriment to the child.

The Commission may have regard to the following when considering the 'no net detriment principle':

- (a) Evidence about the kinds of occupations and industries in which children are employed;
- (b) The state Awards that apply to those occupations and industries;
- (c) Any industrial relations legislation that may apply generally to the employment of children;



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- (d) Any provision of any such State awards or industrial relations legislation that operate to provide conditions of employment that are particularly important for ensuring the well-being of children who are employed; and
- (e) The provision of any other laws of the State that may be relevant to the employment of children or to their well-being while employed (e.g. occupational health and safety).

See *Industrial Relations (Child Employment) Act 2006*, section 5.

What are the record keeping requirements?

For each child employed, the employer must ensure that records are kept of the following matters:

- (a) the name of the employer;
- (b) the ACN (if any) and ABN of the employer;
- (c) the name, address, and contact telephone numbers of:
 - i. the child;
 - ii. the child's parents;
 - iii. a person nominated by the child's parents as being responsible for the child in the event of the parents being unavailable; and
 - iv. the child's supervisor on each such occasion;
- (d) the date of birth of the child as provided to the employer;
- (e) the date on which the child's employment began;
- (f) the nature of the work that the child is employer to carry out;
- (g) where consent of the child is required by law, details of any such consent;
- (h) the reference number of the employer's authority under the Care and Protection Act;
- (i) whether the child's employment is full time or part time;
- (j) whether the child's employment is permanent, temporary or casual;
- (k) any remuneration paid to the child;
- (l) the days on which the child works for the employer (including the starting and finishing times and the total number of hours worked each day);
- (m) if the child's employment is terminated – the date on which the child's employment is terminated;
- (n) an Incident Register recording details of any accident or injury involving the child in the course of their employment; and



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- (o) such other matters concerning the employment of the child as may be prescribed by the regulations.

These records must be kept for a period of at least 6 years. Contravention of this provision attracts a penalty of 20 penalty units.

Can my records be inspected?

Yes. Industrial inspectors are empowered under the *Industrial Relations Act 1996* to require an employer to produce records for examination. It is an offence not to comply with such a request.

If the inspector is of the opinion that an employee is not receiving at least equivalent minimum conditions, the employer may be issued with a notice requiring that contravention to be remedied. Failure to comply with the notice, without reasonable excuse, is an offence with a maximum penalty of 100 penalty units.

An employer in receipt of a compliance notice may appeal to the NSW Industrial Relations Commission. The Commission may confirm the notice, vary or revoke it.

What is the penalty for failing to provide the minimum conditions?

If the Commission is satisfied that an affected employer of a child has contravened the requirement to provide a child with minimum conditions of employment, it may order the employer to pay a pecuniary penalty of up to \$10,000.

Care and Protection Act

Who does the Care and Protection Act apply to?

The Care and Protection Act applies to a person younger than 15 years old, or 16 years old in the case of employment as a model, who engages in:

- (a) paid employment;
- (b) employment in exchange for some other material benefit;
- (c) the relevant activity in exchange for one person making a payment, or agreeing to make a future payment to a third party; or
- (d) the relevant activity is performed because of a requirement of the child's studies.

What obligations exist for employers?

An employer of a child should ensure that a child's physical and emotional well-being is not put at risk. If it is found that an employer has done this, a company director or manager can be found personally liable for a maximum penalty of 200 penalty units.

Under the Regulations, employers must:

- comply with the Code of Practice set out in the Regulations;
- ensure all people under the employer's control comply with the Code of Practice.

Prior to the child commencing employment, the employer must:

- provide a copy of the Code of Practice to a parent of the child; and
- prepare a Code of Conduct in a form approved by the Children’s Guardian setting out the best practice guidelines for the care and protection of children employed to be provided to each employee and parent of the child.

Code of Practice

Under the Code, the child must:

- (a) not be employed at any place unless the Children’s Guardian has been given notice with the particulars of the place at least 7 days prior;
- (b) not be subjected to corporal punishment, social isolation, immobilisation, or any other behaviour likely to humiliate or frighten;
- (c) at all times be able to make contact with a parent or nominated person, and the employer must facilitate this contact whenever the child requests, or otherwise appropriate time;
- (d) not be employed during school hours, if school-aged, unless:
 - i. the employment is for a period during which the child is not required to attend school as approved by the Department of Education;
 - ii. the child is enrolled in distance education; or
 - iii. the child is registered for home schooling.
- (e) be taken home by the employer upon finishing work, unless:
 - i. the child is more than 12 years old;
 - ii. the distance between work and home is 10 kilometres; AND
 - iii. the travel home will be by public transport during daylight hours.
- (f) be provided at:
 - i. reasonable hours, with food that is varied, sufficient, nutritious and appropriate to the child;
 - ii. all times, with water or juice;
- (g) have access to clean and accessible toilets and bathrooms;
- (h) be adequately clothed and protected from extreme weather;
- (i) have their parent notified on the child becoming ill or injured.

What hours can a child work?

Generally, a child must:

- (a) not be employed for more than;
 - i. one shift on any one day;



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- ii. 5 consecutive days; and
 - iii. 4 hours on any school day;
- (b) be given;
- i. within any 4-hour period, an appropriate number of rest breaks, of appropriate duration, taking into account the child's age, needs, and the nature of the work engaged in; and
 - ii. a 1 hour break every four hours;
- (c) not start with the employer less than 12 hours after finishing their last period of work;
- (d) not work later than 9:00pm on any day if the child is to attend school the following day;
- (e) not have their time engaged in work and schooling exceed 50 hours in any week.

There are additional restrictions and obligations outlined in the Code of Practice specified for babies under 12 weeks of age, and children engaged in:

- (a) entertainment or exhibitions;
- (b) live performances;
- (c) door-to-door sales; and
- (d) other regulated activities, such as still photography.

The Children's Guardian

Permission from the Children's Guardian, in the form of an "*employer's authority*" is required if you intend to employ children to take part in:

- (a) an entertainment or exhibition;
- (b) a performance recorded for use in a subsequent entertainment or exhibition;
- (c) the sale of anything from door-to-door;
- (d) a still photographic session;
- (e) a preparatory activity; or
- (f) a performance activity.

The Children's Guardian may grant the authority if the employer has capacity to satisfy the above requirements, and will comply with any conditions within 14 days of the application. The authority can last a maximum of 12 months.

However, an employer will be exempt from the obligation to have an employer's authority if the child is:

- (a) employed for the purposes of a fundraising appeal, or where the net proceeds of the event will be applied wholly to a charitable object;

- (b) more than 10 years old and the employment is outside school hours, for no more than 10 hours per week;
- (c) the child is a national of a foreign country who is employed in connection with the conduct of a regulated activity under the auspices of the government of the foreign country; or
- (d) otherwise exempted by the Children's Guardian.

What other powers does the Children's Guardian have?

If any of the above responsibilities under the Care and Protection Act are contravened, then the Children's Guardian has the power to request that the child be removed from the place of employment.

The Children's Guardian can accept and enforce an undertaking in connection with a function the Guardian has under the Care and Protection Act.

The Guardian can also compel the provision of information in relation to litigation commenced under the Act, or to investigate a complaint in relation to the employment of children.

Victoria

This fact sheet provides information about the laws regulating the employment of children in Victoria.

What laws regulate the employment of children in Victoria?

The *Child Employment Act 2003 (Vic)* (**Act**) regulates the employment of children in Victoria.

What is the minimum age for employing a child?

The minimum age for employment of a child is:

(a) 11 years of age when the child is:

- delivering newspapers;
- delivering pamphlets or other advertising material; or
- making deliveries for a registered pharmacist.

(b) 13 years of age for any other employment.

There are no age restrictions where a child is employed in a family business (a business carried on by the parent or guardian of the child) or in entertainment.

Conditions of Employment

Duties

A child may only be employed to perform light work.

Light work is defined as work or any other activity that is not likely to be harmful to a child's health or safety, moral or material welfare or development and that will not prejudice the child's schooling. Examples of light work include clerical work and working as a sales assistant.

In determining whether or not any work or activity is light work, or is likely to be harmful to a child's health, safety or moral or material welfare or development, consideration must be given to the:

- (a) child's gender, age, physical and emotional development and maturity; and
- (b) nature and management of the work or activity and environment.

A child under the age of 15 years is prohibited from the following kinds of employment:

- door-to-door selling;
- employment on a fishing boat, other than a boat operating on inland waters;
- employment on a building or construction site (whether commercial or residential) at any time before the building on the site are a lock-up stage;
- any kind of employment declared prohibited by the Governor in Council.



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Hours of Work

The Act limits the number of hours that children perform in the workplace during school term and school holidays. The limitations are:

- (a) During a school term, a maximum of 3 hours per day, and 12 hours per week; and
- (b) During school holidays, a maximum of 6 hours per day, and 30 hours per week.

These hours are inclusive of rest breaks.

A child must not be employed:

- (a) during school hours;
- (b) earlier than 6am or sunrise (whichever is earlier) or later than 6pm or sunset (whichever is earlier) if the child is employed in street trading; or
- (c) earlier than 6am or 9pm in any other case.

These provisions do not apply when the child is working in a family business.

Breaks

During employment, children must be given a rest break every 3 hours of at least 30 minutes' duration. This may be paid or unpaid.

Children must have at least 12 hours break between finishing one shift of work and commencing another.

These provisions do not apply when the child is employed in a family business.

Requirements for Employing Children

Permits

A permit must be obtained prior to the child obtaining employment. Merely having applied for the permit will not be sufficient. A parent or guardian must not allow a child to engage in employment unless a permit has been issued. The application form for a child employment permit can be found [here](#). Permits are valid for 12 months, but may cover breaks in employment.

However, a permit is not required where the child is employed in a family business or if a child is employed in accordance with a work experience arrangement.

Who is responsible for applying for a Child Employment Permit?

A person who proposes to employ a child (the employer) may apply for the permit by making an application to the Department of State Development, Business and Innovation.

An application must contain the following information:

- (a) Name, date of birth and home telephone number of the child;
- (b) Name, telephone number and business address of the child's prospective employer;



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- (c) Name of the child's parent or guardian and their home address and telephone number (if different from the child);
- (d) The name and address of the child's school; and
- (e) A statement by the prospective employer on:
 - i) Intended workplace of the child and the business, trade or occupation carried on at the workplace;
 - ii) Duties it is intended that the child will perform;
 - iii) The intended hours of employment, date of commencement and completion; and
 - iv) Whether any of the employment will be performed during a school term, and if so, whether any will be performed within school hours.

The application must be signed by: the prospective employer, parent or guardian of the child and by a representative on behalf of the child's school (if any of the proposed work falls during school hours).

The Secretary may choose to refuse an application if it does not comply with these requirements.

Cost

There is no cost associated with obtaining a Child Employment Permit.

Supervision of Children

An employer of a child must ensure that the child is:

- (a) supervised at all times by a person who has a current assessment notice, given under the *Working with Children Act 2005 (Vic)* or who is exempt from the requirement to have an assessment notice; and
- (b) directly and adequately supervised by a person referred to in (a) at all times in the employment.

Working with Children Check

The *Working with Children Act 2005 (Vic)* provides for 'Working with Children Checks', which assess whether a person is suitable to work in child-related work. The Working with Children Check requirements and forms can be found [here](#).

Child Employment Officers

Child Employment Officers are appointed to provide information about the operation of the Act to employers, schools, children, parents and other interested members of the community. They also have the power to investigate for application and ensure compliance with the legislation.

Officers may enter a workplace in order to:

- inspect any work, material, machinery, appliance, article, facility or other thing;
- take samples of goods or substances in accordance with regulation;



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- interview employer or representative;
- inspect and copy records.

Record Keeping Requirements

The *Child Employment Regulations 2014 (Vic)* outline the records and documents to be kept by the employer:

- The time the child starts and finishes work;
- The hours the child works each day and week;
- The date the child started employment and the date the child ceased employment; and
- Each date the child worked.

These records must be kept for at least 12 months after the date on which the last entry was made.



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South Australia

In the State of South Australia, there is currently no specific child employment legislation in operation. The education of young persons is governed by the *Education Act 1972 (SA) (Act)*.

The main restrictions on work arising out of this Act are that a person must not employ a child of compulsory education or school age:

- (a) during the hours they are required to attend school or their approved learning program; or
- (b) in any labour or occupation that renders, or is likely to render, the child unfit to:
 - i. attend school or participate in an approved learning program; or
 - ii. obtain the proper benefit from such attendance or participation.

It is important to keep in mind that an employment relationship is also governed by the *Fair Work Act 2009 (Cth)* and any applicable Award or Agreement.

Western Australia

This fact sheet provides information about the regulation of child employment in Western Australia, which is governed by the *Children and Community Services Act 2004 (Act)*.

What is the minimum age of employment?

You cannot employ a child under the age of 15 years unless:

- the child is employed in a dramatic or musical performance or other form of entertainment or in the making of an advertisement;
- the child (aged 10 to 12 years) is employed to carry out delivery work between 6:00am and 7:00pm (but outside of school hours) accompanied by a parent or an adult and authorised in writing by the parent;
- the child is employed in a family business;
- the employer has written permission of a parent for the child to work and the child is at least 13 years old and employed to carry out:
 - delivery work (delivery of newspapers, pamphlets or advertising material);
 - work in a shop, retail outlet or restaurant;
 - collect shopping trolleys from a shop or retail outlet, including adjacent areas;between 6am and 10pm only (but not during school hours);
- the child is exempted under the *School Education Act 1999*; or
- the child is participating in an approved school program where work is part of the program.

A child is considered to be employed where the child is engaged to carry out work, whether or not they receive payment or any other kind of reward.

A person who employs a child in breach of these provisions, or a parent of a child who allows their child to be employed in breach of these provisions is liable for a penalty of \$24,000. However, it is a defence for an employer to prove that there were reasonable grounds for believing that at the time of the alleged offence that the child had reached 15 years of age. It is recommended that prior to offering employment to a child, a copy of the child's birth certificate or proof of age is provided to you.

Do I need written permission from the child's parent or guardian before I can employ them?

If you employ a child aged that is at least 13 years old to carry out delivery work (newspapers, pamphlets or advertising material), work in a shop, retail outlet or restaurant or collect shopping trolleys from a shop or retail outlet you must have the written permission of the child's parent. You should keep a copy of the parent's permission on the child's personnel file.



What supervision must be provided to a child employee?

A child between the ages of at least 10 years old, but under 13 years old, who is employed to deliver newspapers, pamphlets or advertising must be accompanied by a parent (or an adult authorised in writing by the child’s parent to accompany them) whenever the child is required to deliver such items.

Hours of work

The hours of work that children are permitted to work varies depending upon the child’s age and type of work they are performing. The table below summarises when a child can work.

Age of the child	Type of work the child is permitted to perform	Hours of work
10 to 12 years of age (inclusive)	Delivery of newspapers, pamphlets or advertising material	Permitted to work between the hours of 6am to 7pm Prohibited to work during school hours when the child is legally required to attend school
13 to 14 years of age (inclusive)	Delivery of newspapers, pamphlets or advertising material Working in a shop, retail outlet or restaurant Collecting shopping trolleys from a shop or retail outlet, including adjacent area	Permitted to work between the hours of 6am and 10pm Prohibited to work during school hours when the child is legally required to attend school
15 to 16 years of age (inclusive)	No specific restrictions	Prohibited to work during school hours when the child is legally required to attend school

Other limitations or prohibitions on child employment

If the CEO of the Department for Community Development is of the opinion that the wellbeing of a particular child is likely to be jeopardized by the fact that the child is employed, or the nature or extent of the work that the child is employed to carry out, the CEO may, by written notice given to a parent of the child:

- a) prohibit the employment of the child; or
- b) impose limitations on the employment of the child.

The notice must also be provided to the child and the child’s employer.



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A person who employs a child in contravention of a notice and a parent who permits a child to be employed in contravention of a notice are liable for a penalty of \$36,000 and 3 years' imprisonment.

It is a defence to prove that at the time the child was employed, the person had not been given the notice in respect of the child and was otherwise unaware of the content of that notice.

What if I am provided with false information about the child?

A child or parent of the child is prohibited from providing false or misleading information to an employer of the child about:

- the age of the child;
- whether there is a notice in respect of the child; or
- whether or not there is an exemption in respect of the child under the School Education Act 1999.

Contravention of this provision could result in a penalty of \$6,000.

Can my workplace be inspected?

An industrial inspector may, at any reasonable time, enter a place where a child is employed or is reasonably believed to be employed, for the purpose of inspecting the place and making inquiries in relation to the employment of a child. Such an officer may require a person to answer questions in relation to the employment of a child. It is prohibited to refuse or fail to answer a question from an inspector or to give an answer that the person knows is false or misleading. The penalty for doing so is \$6,000. An industrial inspector may also initiate proceedings against an employer.



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Tasmania

In the State of Tasmania, there is currently no legislation that specifically addresses the employment of children and young persons. There is however reference to child employment in different pieces of legislation.

Under the *Education Act 1994 (Tas)*, a person may not employ, or permit to be employed, a school-aged child during the hours when the child is required to attend a school.

A school-aged child is defined as a child who is at least 6 years of age and is either younger than 16, or has not completed the school year immediately before the first year after compulsory education.

Under the *Children, Young Persons and Their Families Act 1997 (Tas)*, a person must not employ any child:

- (a) Under 11 years of age:
 - i. to offer any thing for sale in a public place; or
 - ii. to be in a public place with any thing for the purpose of offering that thing for sale, either in a public place or elsewhere.
- (b) Between 12 and 13 (inclusive) years of age, to be in a public place between the hours of 9:00pm to 5:00am for the purpose of offering any thing for sale.

However, where the net proceeds are devoted to the benefit of a school or a charitable purpose, these restrictions do not apply.

It is important to keep in mind that an employment relationship is nonetheless governed by the *Fair Work Act 2009 (Cth)* and applicable Award or Agreement.

Northern Territory

This fact sheet provides information about the laws regulating the employment of children in Northern Territory.

What laws regulate the employment of children in the Northern Territory?

The *Care and Protection of Children Act 2007 (NT)* (**Act**) regulates the employment of children in the Northern Territory.

The objects of the act are:

- (a) Prevent the exploitation of children in their employment; and
- (b) To ensure the wellbeing of children who are in employment.

A child is defined in the Act to mean a person who is less than 18 years of age, or appears to be if the person's age cannot be proved.

A child is considered to be employed when engaged to work under a contract of employment or any other arrangement (written or unwritten and whether for a reward or not).

Conditions of Employment

Obligations of Employers and Parents

Parents and employers have the following joint obligations:

- (a) If the child is less than 15 years of age, the child must not perform work at any time after 10:00pm at night and before 6:00am in the morning;
- (b) The child must not be required to perform any work that is harmful, or likely to be harmful to the child's physical, mental or emotional wellbeing; and
- (c) The child must not perform any work that results in their exploitation.

Additionally, parents must not give or require the child to give any information about the child's age that the parent knows to be misleading.

Powers of the CEO

The Chief Executive Officer of the Department may restrict the employment of the child if:

- (a) The child is employed; and
- (b) The CEO is of the opinion that:
 - i. The child suffers or is likely to suffer, exploitation because of the employment; or
 - ii. The wellbeing of the child is, or is likely to be, jeopardised because of the employment.



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The CEO may, by written notice given to a parent of the child:

- (a) Prohibit the child from being so employed; or
- (b) Prohibit the child from employment generally; or
- (c) Prohibit the child from specified types of employment; or
- (d) Impose specified restrictions on the employment of the child.

Inspection Powers

An authorised officer has the power to enter and inspect a premises at any reasonable time where they reasonably believe a child is employed. They have the power to:

- (a) Enter the place;
- (b) Inspect the place and facilities at the place;
- (c) Require any person at the place to produce and hand over specified information or records; and
- (d) Operate electronic equipment to retrieve records at the place; and
- (e) Make extracts or copies of the records.

Penalties

The Act provides for a range of offences and penalties. Offences for employers include:

- Employing a child contrary to the CEO's restrictions; (s201)
- Requiring a child to work outside the specified hours (listed above), in a harmful environment or in a manner that will exploit the child; and (s203)
- Failing to comply with inspection requests (s204).

Australian Capital Territory

This fact sheet provides information about the laws regulating the employment of children and young people in the Australian Capital Territory.

Which laws regulate the employment of children in Queensland?

The *Children and Young People Act 2008 (ACT)* (**Act**) regulates the employment of children and young people in the ACT, and is further supplemented by:

- *Children and Young People (Employment) Standards 2011 (No 1)*;
- *Children and Young People Regulation 2009*;
- *Children and Young People (High Risk Employment) Declaration 2009 (No 1)*; and
- *Children and Young People (Work Experience) Standards 2009 (No 1)*.

The object of this legislation is to protect children and young people working in the ACT, by ensuring that work does not interfere with a child or young person's schooling and by preventing them from performing work that may harm their health, safety, or social development.

Who do the laws apply to?

The Act applies to the employment of all persons under the age of 18. There is a particular emphasis on children who are under 15 years old, and a further distinction between a child, and a young person, where:

- a child is defined as a person under 12 years of age; and
- a young person is defined as a person of at least 12 years of age and under 18 years of age.

The laws cover the employment of children and young people. The definition of employment is fairly broad and encompasses:

- Performance of work under a contract of or for services (whether written or unwritten);
- An apprenticeship, traineeship, or other work-related training for a trade or occupation; or
- Work experience, unless exempted under section 784 of the Act.

Are there restrictions on employment of children or young people?

Yes. It is an offence to employ a child or young person under 15 years old.

The maximum penalty for this offence can range from 50 penalty units, and/or 6 months' imprisonment, or if it involves 'high risk employment', it can go up to 200 penalty units and/or 2 years imprisonment.

However, if it falls within the 'light work' exception, or the family business exception then this will not constitute an offence.



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Additionally, for 'high risk employment', work experience, or research projects, if the employer has the permission of the Director-General, then they will not be liable for an offence.

The 'light work' and 'family business' exceptions can only be relied upon where the employment is in 'light work'.

What is light work?

'Light work' is defined as work that is not 'contrary to the best interests of a child or young person' and is declared by regulation to be light work.

The concept of employment that is '**contrary to the best interests of a child or young person**' is defined in the Act as employment that is likely to:

- (a) prejudice the ability of the child or young person to benefit from the education (or training);
 - i. For a child under 15 years old required to attend a school under the Education Act 2004 (ACT); or
 - ii. For a child or young person engaged in education or training; or
- (b) harm the child or young person's health, safety, personal or social development.

The *Children and Young People Regulation 2009* sets out the requirements under regulation to be considered light work.

Work is considered 'light work' if it is:

- (a) Suitable for the physical, emotional, and developmental capacity of the child or young person;
- (b) Adequately supervised; and
 - i. For a child younger than 3 years of age or younger, this is supervision by a parent or guardian at all times;
 - ii. For a child more than 3 years of age but under 12 years of age, this can be either supervision by a parent or guardian, or by a responsible adult approved by a parent or guardian; and
 - iii. For a 'young person', older than 12 years of age, this is supervision by a responsible adult.
- (c) Done in conditions where appropriate work safety standards protect the child or young person from any actual or potential hazards.

Some examples of this are provided, such as clerical work, work as a cashier, and taking care of children. However, this is not an exhaustive list, and is merely illustrative.

How many hours can the child or young person work under the light work exemption?

If the employment is in light work, and the child is employed for a maximum of 10 hours per week, then the employer will be exempt from the restriction on employing a person under 15 years old.

The 10-hour limit is calculated on the basis of all workplaces the child or young person may work at.

Alternatively, if the employer intends for the child or young person to work more than 10 hours per week, the employer will have to notify the Director-General of the relevant Department in writing 7 days before the employment starts.

What other restrictions exist for rostering young people and children?

Unless otherwise authorised in writing by the Director-General, a child or young person can be employed for a maximum of:

- (a) 3 hours on any given day if the child is 3 years of age or younger;
- (b) 4 hours on any given day if the child is aged between 4 and not yet 12 years; or
- (c) 6 hours on any given day if the young person is aged between 12 and not yet 15 years.

A child or young person must not be employed for more than one shift on any one day, and must have a minimum of 12 hours elapse between shifts. This work must not be performed between 10:00pm and 6:00am, or sunrise (whichever is later) the following day.

What is the family business exemption?

If the employment is light work, and the employer is a parent, or company where the parent is a partner or Director, then the employer will be exempt from the restriction on employing a person under 15 years old.

However, family business employers are subject to all of the same restrictions and obligations as other employers of children and young people.

What is 'high risk employment'?

'High risk employment' is determined by Declaration of the Minister. The most recent declaration is *Children and Young People (High Risk Employment) Declaration 2009 (No 1)*, where the following industries, occupations, or activities are declared to be 'high risk employment':

- (a) use of dangerous machinery;
- (b) use of dangerous substances (as defined in the Dangerous Substances Act 2004);
- (c) handling harsh or toxic chemicals;
- (d) high elevation work;

- (e) service of alcohol;
- (f) gaming or gambling service;
- (g) nudity and display of genitals;
- (h) working with extreme temperatures;
- (i) heavy construction and excavation work.

If an employer wishes to employ a child or young person under 15 years old in one of the above fields, then they will need to apply to the Director-General for a permit with details of:

- the activities the child or young person will be expected to perform;
- the period of employment;
- how the employer proposes to protect the young person's health, safety, personal or social development during the employment; and
- be accompanied by written consent to the proposed employment of a person with daily care responsibility for the young person.

This permit will only be issued if the Director-General believes, on reasonable grounds, that the proposed employment is not likely to harm the child's or young person's health, safety, personal or social development

What is the work experience exemption?

If an employer makes an application to the Director-General with details of how the work experience program complies with the relevant standards in *Children and Young People (Work Experience) Standards 2009 (No 1)*.

One of the restrictions placed on this exemption by the Standards is that a student involved in a work experience program shall only be 14 years or older, unless otherwise authorised by the Director-General.

ACT Children and Young People Employment Standards

What employment standards need to be met?

Any employment must not be contrary to the best interests of the child or young person. This applies for all children and young people under 18.

This concept has been discussed above in the context of light work, but the Standards extend this to also mean that an employer must not employ a child under 17 during school hours, if they are required to attend school by the Department of Education and Training.

There is also the standard that all employers of children and young people under 18 must operate in accordance with all Australian Capital Territory and Commonwealth laws and regulations.

Where a child is under 15 years of age, there are additional standards that must be complied with as outlined by the *Children and Young People (Employment) Standards 2011 (No 1)*.



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These standards restate many expectations of employers for all employees, but they do introduce some specific obligations for children under 15.

For Children and Young People under 15

What do I need to consider when giving the child or young person work?

The standards require that an employer must consider the child or young person's:

- physical ability to do the work, (i.e. their size, and strength); and
- emotional development, to ensure it is age appropriate.

Further consideration needs to be made of the impact that the work will have on the child or young person's development, and that the level of responsibility is consistent with the child or young person's capacity to perform the work.

An employer should also take reasonable steps to ensure that children or young people working for them have arrangements in place for safe travel to and from work, appropriate to their age and maturity, and that they have arranged transport back home. If working hours have to change, then an employer should make sure that the child is able to make a call to re-arrange transport home.

Do I need a parent's permission to employ a child or young person under 15?

Yes. The child or young person must provide consent, and a parent must provide informed written consent prior to the child or young person beginning employment.

To ensure this occurs, the employer should provide as much information as practicable about the role and expected duties to the parent or guardian, and keep a record of this as evidence of informed consent.

Additionally, an employer must ensure that a child or young person has reasonable access to contact their parent or guardian.

In the event of the child or young person becoming ill or injured, the employer must also take reasonable steps to ensure that a parent, guardian, or emergency contact is contacted.

Does a child or young person under 15 need to be supervised?

Yes. Each child and young person under 15 years of age is provided with adequate and reasonable supervision by a responsible adult. Consideration should be made and documented of the suitability of the supervising adult where they are not the child or young person's parent or guardian.

However, they must be directly supervised by a parent or guardian, or responsible adult approved by parent or guardian, where the child or young person is engaged in:

- outdoor work outside of daylight hours; or
- door to door sales.

Regardless of the nature of the activity, if they are under 12 years of age, then the child must be supervised by a parent or guardian, or responsible adult approved by parent or guardian.

If they are under 3 years of age, then the child must be directly supervised by a parent or guardian at all times, or a suitably qualified child development expert.



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What records do I need to keep for a child or young person under 15?

In addition to existing standards for record keeping, employers are required to retain the following information where the child or young person employed is under 15:

- (a) full name, address and telephone number of the child or young person;
- (b) child or young person's date of birth;
- (c) name address and contact telephone numbers for the child or young person's parent or guardian;
- (d) name, address and contact telephone numbers for an emergency contact person over 18 in the case that a parent or guardian is required and they cannot be contacted;
- (e) particulars of consent, including record of written consent from the parent or guardian; and
- (f) the full name of responsible adults authorised to supervise the child or young person.

For more information

Phone: 1800 RETAIL (738 245)

IMPORTANT INFORMATION

The information in this guide is of a general nature. It is not intended to be a comprehensive summary of the law and should not be relied upon as legal advice.