

| AUSTRALIA (2000-2019) | | | |
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| <i>THE EFFECTIVE ABOLITION OF CHILD LABOUR</i> | | | |
| REPORTING | Fulfilment of Government's reporting obligations | YES, except for the 2002 and 2004 Annual Reviews (ARs). | |
| | Involvement of Employers' and Workers' organizations in the reporting process | <p>YES, according to the Government: Involvement of the employers' organizations (the Australian Chamber of Commerce and Industry (ACCI) and the Australian Industry Group (Ai Group)) and the workers' organizations (the Australian Council of Trade Unions (ACTU)) through communications of government's reports.</p> <p>In 2016 and 2017, due to time constraints, the report was not shared with social partners prior to submission to the ILO. However, copies of the Government's report have been forwarded to the Australian Chamber of Commerce and Industry (ACCI) and the Australian Council of Trade Unions (ACTU) with a request to send any comments directly to the ILO.</p> | |
| OBSERVATIONS BY THE SOCIAL PARTNERS | Employers' organizations | NIL. | |
| | Workers' organizations | 2010 AR: Observations by ACTU. | |
| EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT | Ratification | Ratification status | Australia ratified in December 2006 the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, it has not yet ratified the Minimum Age Convention, 1973 (No. 138) (C.138). |
| | | Ratification intention | <p>Under consideration since 2011.</p> <p>2018 AR: The Government indicates that C.138 is likely to be ratified. It is formally considering ratifying C.138 and is undertaking a comprehensive legal assessment of Australia's compliance with the convention.</p> <p>2015 – 2017 AR: According to the Government: Ratification is not currently a priority for the current Australian Government.</p> <p>2014 AR: According to the Government: The ratification of C. 138 is under active consideration and that the Commonwealth, state and territory governments have assessed their respective jurisdictions as compliant with the Convention. At the time of submitting the report, the Government indicated that a proposal to ratify the Convention was being considered by the Joint Standing Committee on Treaties in the Australian Parliament. However, the Australian Parliament was expected to be prorogued in the near future, and consequently a report by the Committee on C. 138 may be delayed.</p> <p>2013 AR: The Government reiterated its statement made under the 2012 AR indicating that all Australian governments have advised that their jurisdictions to comply with C.138 in law and practice, taking into account reliance on the flexibility provisions under Article 3(3) and Article 4 of the Convention. A decision on Australia's future ratification will be made following the completion of consultations with state and territory governments.</p> <p>2012 AR: According to the Government: Australia's treaty-making policy requires that treaties, such as ILO Conventions, cannot be ratified unless full compliance has been achieved in all jurisdictions. The Australian Government and state and territory workplace relations Ministers agreed to formally consider ratification of C.138 in 2011. The Government is working closely with state and territory governments to determine their respective compliance with the requirements of the Convention. A decision on Australia's future ratification will be made once this assessment has been finalized.</p> <p>2011 AR: According to the Government: While Australia meets the spirit and basic objectives of the Convention, it remains unclear whether Australia complies with every technical requirement of C.138. To this end, the Government is working closely with state and territory governments to determine their compliance with the requirements of this instrument, as well as ILO concerning compliance issues.</p> <p>2010 AR: According to the Government: While Australian law and practice fully meets the objectives of C.138, Australia is currently unable to ratify it due to technical compliance reasons. State and Territory governments have been</p> |

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| | | | <p>consulted with a view to determining whether and to what extent their legislation complies with the requirements of the convention. The Government is still awaiting responses from a number of States and Territories. Of the Territories and States that have provided practice reports for C.138, some have stated that the ratification of C.138 cannot be supported at this stage or require further consideration. The Australian Government is currently conducting research to determine compliance gaps.</p> <p>The ACTU reiterated its support for the ratification of C.138 by the Australian Government.</p> <p>2009 AR: According to the Government: The Government is conducting research to determine whether C.138 is an appropriate target for ratification. State and territory governments will be consulted with a view to determining whether and to what extent their legislation complies with the requirements of C.138.</p> <p>2008 AR: The Government indicated that while Australian law and practice fully meets the objectives of C.138, Australia is currently unable to ratify it due to technical compliance reasons.</p> <p>2007 AR: According to the Government: Ratification of C.182 by Australia can be expected by the end of 2006. [Ratification was registered on 19 December 2006.]</p> <p>Commonwealth Government – Government legislation is fully compliant with C.182.</p> <p>New South Wales (NSW) – The NSW Government is fully supportive of ratification of C.182 and NSW legislation is in compliance with C.182.</p> <p>Victoria – The Victorian Government strongly supports C.182 and registered agreement to ratification with the Federal Government on 1 December 2000. Victorian legislation is in compliance with C.182.</p> <p>Queensland – The Queensland Government is fully supportive of ratification of C.182 and Queensland legislation is in compliance with C.182.</p> <p>Western Australia – The Western Australian Government is fully supportive of ratification of C.182 and Western Australian legislation is in compliance with C.182.</p> <p>South Australia – The South Australian Government is fully supportive of ratification of C.182 and South Australian legislation is in compliance with C.182.</p> <p>Northern Territory – The Northern Territory Government is fully supportive of ratification of C.182 and Northern Territory legislation is in compliance with C.182.</p> <p>Australian Capital Territory (ACT) – ACT Government is fully supportive of ratification of C.182 and ACT legislation is in compliance with C.182.</p> <p>Tasmania – The Tasmanian Government is fully supportive of ratification of C.182 and as of 1 January 2006, Tasmanian legislation is in compliance with C.182.</p> |
| | <p>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</p> | <p>Constitution</p> | <p>NIL.</p> |
| | | <p>Policy, legislation and/or regulations</p> | <p>2019 AR: <i>Australian Capital Territory (ACT):</i> The Children and Young People (Minimum Living Conditions) Policy and Procedures 2018 (No 1) was implemented in the 2018-19 financial year. The Children and Young People Act 2008, the Human Rights Act 2004 and human rights law prescribe permanent minimum standards to be provided to all young people at a detention place. <i>Commonwealth:</i> On 1 January 2019, Australia’s Modern Slavery Act 2018 (Cth) entered into force. The Act will combat modern slavery risks in global operations and supply chains of businesses and other entities operating in the Australian market. <i>New South Wales:</i> In New South Wales, co-existing with the prohibition on children of compulsory school age being employed during school hours, there is a regulatory regime for specified areas of employment including artistic performances under the Children and Young Persons (Care and Protection) Act</p> |

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| | | <p>1998 and the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015 and its Code of Practice. The legislation continues to be administered by the Office of the Children’s Guardian (OCG). On 21 June 2018, the NSW Parliament passed the Modern Slavery Act 2018 (NSW Act). <i>Northern Territory:</i> In the Northern Territory there is a new Liquor Act 2019 commencing 1 October 2019 and a new Sex Industry Bill 2019 introduced in September. Under the new Liquor Act, a licensee must not employ a child (under 18) to sell or supply liquor except with permission. Under the new Sex Industry Bill, the old section which currently reads "It is an offence to cause or induce an infant (or person under 18) to take part in prostitution", would read instead as "It is an offence to cause or allow a child (person under 18) to perform sex work or work in a sex services business".</p> <p>2018 AR: The Government reports the following changes:</p> <p><i>Commonwealth:</i> In June 2018, the Australian Government introduced a supply chain reporting requirement into Parliament. The Modern Slavery Bill 2018 would require large businesses and other entities in Australia to publicly report on actions to address risks of modern slavery (including the worst forms of child labour) in their supply chains and operations. The introduction of this legislation followed extensive stakeholder consultation with business, industry, academia, unions, and civil society. If/when passed, the Government will provide comprehensive guidance to support business to comply with the reporting requirement and will also deliver awareness-raising and training activities. In 2017, additional safeguards were introduced to the Commonwealth Fair Work Act (2009) through the Fair Work (Protecting Vulnerable Workers) Amendment Act 2017 to more effectively deter worker underpayments and other unlawful workplace practices by employers (including young workers).</p> <p><i>New South Wales:</i> On 21 June 2018, the NSW Parliament passed the Modern Slavery Act 2018 (the Act) to combat modern slavery. The Act seeks to do so by a number of means, including by providing for an Anti-slavery Commissioner and providing for mandatory reporting of risks of modern slavery in corporate supply chains. Under the Act, “modern slavery” is defined by reference to particular existing criminal offences set out in NSW and Commonwealth law, including forced labour, human trafficking and debt bondage. The Act 2018 will commence on a day to be appointed by proclamation.</p> <p>Western Australia finalised one investigation concerning allegations of unlawful employment of children during the period 1 July 2017 to 30 June 2018. There were no prosecutions.</p> <p><i>Remaining jurisdictions:</i> There has been no change since the previous update.</p> <p>2017 AR: According to the Government: the following policy initiatives, legislative developments, labour inspection/monitoring, judicial decisions, and other related practices have been implemented:</p> <p><i>Commonwealth:</i> In addition to the measures outlined in Australia's National Action Plan to Combat Human Trafficking and Slavery 2015 – 2019 which is available electronically at: https://www.ag.gov.au/CrimeAndCorruption/HumanTrafficking/Documents/Trafficking-NationalActionPlanToCombatHumanTraffickingAndSlavery2015-19.pdf. The Australian Government provided the Fair Work Ombudsman (FWO) with additional funding to assist in addressing the exploitation of vulnerable workers, enabling the FWO to increase direct engagement with vulnerable communities and expand teams who work with vulnerable groups. Further, in March 2017, the Government introduced legislation to strengthen protections for vulnerable workers. The Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017 amends the Fair Work Act 2009 (Cth) to include higher penalties for contraventions of prescribed workplace laws, make franchisors and holding companies responsible for underpayments in certain circumstances, and strengthen evidence gathering powers for the FWO. In August 2016, the National Roundtable on Human Trafficking and Slavery (a consultative mechanism established in 2008 to discuss legislative and policy responses to emerging issues relating to human trafficking and slavery in Australia, the Asia-Pacific and further afield), established the Labour Exploitation Working Group to consider Australia's response to criminal forms of labour exploitation and provide a report and recommendations to the National Roundtable in mid-2018.</p> <p>Other Jurisdictions New South Wales</p> <p>Since the last update, the Children and Young Persons (Care and Protection) Act 1998 (Care and Protection Act) has been amended to provide the Children's Guardian with additional powers to conduct investigations into suspected non-</p> |
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| | | <p>compliance. These include:</p> <ul style="list-style-type: none"> • Power to enter premises where there is suspected employment of children in the prescribed industries. – section 236A • Power to compel the production of information – section 226N <p>The Care and Protection Act was also amended to provide additional powers to enter into enforceable undertakings (section 226A) and issue penalty notices (section 259A(10)(c)) as enforcement options to address breaches of the legislation.</p> <p>Queensland <i>Industrial Relations Act 2016</i></p> <p>On 9 September 2016 the Industrial Relations Act 2016 replaced the Industrial Relations Act 1999. The purpose of the Industrial Relations Act 2016 is to provide for a framework for the conduct of industrial relations within the State's industrial relations jurisdiction that is fair and balanced and supports the delivery of high-quality services, economic prosperity and social justice for Queenslanders. The Industrial Relations Act 2016 received assent on 9 December 2016 following its successful passage through the Queensland Parliament on 1 December 2016. Most provisions of the Industrial Relations Act 2016 commenced on 1 March 2017.</p> <p>Like the previous Industrial Relations Act 1999, the Industrial Relations Act 2016 does not specifically legislate for children in employment relationships, however, the Industrial Relations Act 2016 provides protection of conditions of employment for all employees regardless of age. Examples of protections include general conditions of employment (entitlement to minimum wages - section 22, maximum weekly hours - section 23 and award coverage (chapter three)).</p> <p>Similar to the Industrial Relations Act 1999 there is no minimum legislated age for employment under the Industrial Relations Act 2016. However, it is considered that the current industrial relations legislation provides adequate protection for children in bona-fide employment relationships.</p> <p>The Industrial Relations Act 2016 introduces new protections for all workers. Amongst these changes include the establishment of a general protections jurisdiction to protect workers against adverse action during employment or dismissal from employment; and workplace bullying remedies for state and local government employees. These protective mechanisms assist in ensuring that all workers are protected from circumstances that are likely to harm their health, safety and morals.</p> <p>The Industrial Relations Act 2016 introduced anti-bullying measures which apply to all workers who are not currently able to access the federal anti-bullying jurisdiction under the Fair Work Act 2009 (Cth). Anti-bullying provisions can be found in Chapter 7, sections 272 to 277 of the Industrial Relations Act 2016. Under the Industrial Relations Act 2016 a worker, including a young worker, is bullied at work if:</p> <ul style="list-style-type: none"> • a person or group of people repeatedly act unreasonably towards them or a group of workers of which the employee is a member, and • the behaviour creates a risk to their health and safety. <p>Under the Industrial Relations Act 2016 the Queensland Industrial Relations Commission (QIRC) has been given powers to be able to easily and quickly deal with applications for a stop bullying order. This may include contacting the employer or other parties to the application, conducting a conference or holding a formal hearing. If the QIRC is satisfied that the worker has been bullied, and there is a risk that the worker will continue to be bullied, it may make a stop bullying order to prevent the worker being bullied at work. Stop bullying orders can be applied for by visiting the QIRC website: www.qirc.qld.gov.au.</p> <p>The Industrial Relations Act 2016 provides a remedy for where an employee considers they have been treated detrimentally in their employment. Chapter 8 of the Industrial Relations Act 2016 introduced a general protections jurisdiction in Queensland for workers against adverse action during employment or dismissal from employment. The new protections are significant and are similar to those in the Australian federal Fair Work Act 2009 in relation to:</p> <ul style="list-style-type: none"> • workplace rights and adverse action; • freedom of association with industrial associations; • workplace discrimination, and • providing effective relief for persons discriminated against, victimised or |
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| | | <p>otherwise adversely affected.</p> <p>Enforcement provisions and industrial inspector powers can now be found under Chapter 13 – Enforcement of the Industrial Relations Act 2016. The provisions providing power to inspectors were consolidated and reformed from Chapter 10 of the Industrial Relations Act 1999. Clauses relating to enforcement under the Industrial Relations Act 2016 Chapter 13 largely reflects Chapter 10 of the Industrial Relations Act 1999.</p> <p>Offence provisions can now be found under Chapter 14 – General Offences of the Industrial Relations Act 2016. These provisions were replicated from Chapter 13 - Offences of the Industrial Relations Act 1999. As such Chapter 14 of the Industrial Relations Act 2016 generally reflects Chapter 13 of the Industrial Relations Act 1999. Minor technical amendments were made to some provisions.</p> <p>The Industrial Relations Act 2016 is available from the Queensland legislation website and can be found by using the following link: https://www.legislation.qld.gov.au/view/html/in force/current/act-2016-063</p> <p><i>Child Employment Regulation 2016</i></p> <p>A review of the Child Employment Regulation 2006 (Qld) has been undertaken to accord with legislative requirements that regulations be reviewed at least once in every ten years. On 1 September 2016, the Child Employment Regulation 2006 was remade as the Child Employment Regulation 2016. No changes were made to the effect of the regulation's provisions except for changes to accord with modern drafting practices and regulatory structure.</p> <p>The Child Employment Regulation 2016 provides adequate protection of children at work in line with the objects of the legislation and without imposing onerous obligations upon employers. The Child Employment Regulation 2016 is available from the Queensland legislation website and can be found by using the following link: https://www.legislation.qld.gov.au/view/html/as made/sl-2016-0137</p> <p>Western Australia</p> <p>Western Australia finalised five investigations of allegations of unlawful employment of children during the period 1 July 2016 to 30 June 2017. There were no prosecutions.</p> <p>South Australia</p> <p>Section 75(1) of the Education Act 1972 (SA) (the Education Act) requires a child of compulsory school age to be enrolled and attend at a primary school or secondary school. A child of compulsory school age means a child of, or above, the age of six years but under the age of 16 years.</p> <p>Subject to sections 75 and 76 of the Education Act, if a child of compulsory school age is not enrolled at a school or fails to attend school or participate in an approved learning program, each parent of the child is guilty of a separate offence carrying a maximum penalty of \$500.</p> <p>The only exception to this requirement is if the child or young person receives a ministerial exemption under section 81A of the Education Act.</p> <p>Section 78 of the Education Act prohibits employers from employing children of compulsory school or education age during school hours or at a time of day or night, or in any labour or occupation that render the child unfit to attend school or attain the proper benefits from such participation and attendance. A breach of section 78 is an offence that carries a maximum penalty of \$5,000.</p> <p>Available statistical evidence verifies the effectiveness of education legislation in the social context that applies in South Australia, which has an advanced economy and social welfare provisions that aim to protect children and young people from exploitative working conditions, as well as minimise pressure for children to work to support family income.</p> <p>Section 3(2) of the Fair Work Act 1994 (SA) (the SA FW Act) which applies to public sector and local government employment, also gives effect to the Convention by providing that the South Australian Employment Tribunal, and other industrial authorities, are to have regard (where relevant) to the provisions of the Worst Forms of Child Labour Convention, 1999 (No. 182), which is contained in Schedule 9 of the SA FW Act, in making determinations.</p> <p>However, South Australian private sector employment is covered by the Fair Work Act 2009 (Cth).</p> <p>Electronic copies of South Australian legislation are available at: www.legislation.sa.gov.au.</p> |
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| | | <p>Tasmania</p> <p>The Education Act 2016 commenced on 10 July 2017, repealing the Education Act 1994. The new Act extends compulsory education for students. Students must continue to participate in education and training until they complete Year 12, attain a Certificate III, or they turn 17 years of age (whichever occurs first). The minimum school leaving age will increase to 18 in 2020.</p> <p>The 2016 Act also provides more detail and strengthens the processes (see table below) which enable school-aged children or youths to participate in employment during school hours.</p> <p>The changes between the 1994 Act and 2016 Act, in respect of the employment of children are illustrated in the table below:</p> <p>Education Act 1994</p> <p>Section 82, Education Act 1994 Employment of children</p> <p>A person must not employ or permit to be employed a school-aged child during the hours when the child is required to attend a school, the Academy or TasTAFE or undertake home education, except as authorised by the Secretary.</p> <p>Penalty: Fine not exceeding 100 penalty units. Education Act 2016</p> <p>Section 247, Education Act 2016 Employment of children</p> <p>(1) In this section –</p> <p>prescribed child means a school-aged child who is not exempted under section 13 from the requirement to be enrolled at a school;</p> <p>prescribed youth means a youth who is required under section 24 to participate in an approved learning program or be home educated.</p> <p>(2) Except as authorised by the Secretary, a person must not employ, or permit to be employed, a prescribed child during the hours when the child is required to –</p> <p>(a) attend a school; or</p> <p>(b) undertake home education; or</p> <p>(c) participate in an individual education program.</p> <p>Penalty: Fine not exceeding 100 penalty units.</p> <p>(3) Except as authorised by the Secretary, a person must not employ, or permit to be employed, a prescribed youth during the hours when the youth is required to –</p> <p>(a) participate in his or her approved learning program; or</p> <p>(b) undertake home education.</p> <p>Penalty: Fine not exceeding 100 penalty units.</p> <p>(4) Subsection (3) does not apply if the person employing the prescribed youth is a provider under the youth's approved learning program and employs the youth in accordance with that program.</p> <p>(5) It is a defence to an offence against subsection (2) or (3) if the defendant proves that he or she had a reasonable belief that the prescribed child or prescribed youth was not –</p> <p>(a) a school-aged child or youth; or</p> <p>(b) a prescribed child or prescribed youth.</p> <p>Northern Territory</p> <p>There have been no legislative changes to the Education Act 2016 (NT) since the previous update.</p> <p>The Education Act continues to provide a compulsory school age of 6 years and a minimum school leaving age of 17 years, or completion of year 10 of secondary education; and mandate that a compulsory school aged child must be enrolled in and attend school.</p> <p>Importantly, the Education Act continues to prohibit the employment of a child of compulsory school age during school hours, or at any time that is likely to cause the child to be unfit or unable to attend school at the times the child is required to attend school, or unfit or unable to understand instruction provided for the child when attending school.</p> <p>Remaining Jurisdictions (Vic, ACT)</p> <p>There has been no change since the previous update.</p> <p>2016 AR: According to the Government, the following actions and measures had been taken as part of changes in law, practices and legislation:</p> <p><u>New South Wales:</u></p> |
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| | | <p>The Office of the Children’s Guardian regulates the employment of children in the entertainment, exhibition, recorded performance, still photography, and door-to-door sales industries. While the Office of the Children’s Guardian has not taken steps to abolish child labour, the Children and Young Persons (Care and Protection)(Child Employment) Regulation 2015 aims to mitigate the risks associated with child labour such as: Child sexual abuse, physical harm, psychological harm, exploitation through excessive work hours, exposure to adult themes and concepts, and educational neglect. It does this by specifying employers’ obligations in setting minimum standards and work conditions for the child.</p> <p>In New South Wales, students must remain in some form of education, training or employment until 17 years of age (or completion of Year 10). Any person below the minimum school leaving age is precluded from accepting employment which would prevent their attendance when school is open for the child’s instruction or participation in school activities. However, an employer would be able to employ a person of any age, subject to the relevant child employment laws in that state, or before or after compulsory school times.</p> <p><u>Victoria</u></p> <p>Labour inspection/monitoring - the Employment, Information and Compliance Unit, Industrial Relations Victoria, Department of Economic Development, conducted 155 investigations into child employment to check compliance with the Child Employment Act 2003, the Mandatory Code and specific conditions of child employment permits. Compliance methods included field visits, inspections, discussions and other monitoring strategies. The Employment, Information, and Compliance Unit provided advice on 10 occasions and 25 breaches resulted in formal warnings. One prosecution was recommended under the Child Employment Act 2003, action is pending.</p> <p>The Education Training and Reform Act 2006 continues to require parents to ensure that children of school age (6-17 years) attend school on all school days unless there is a ‘reasonable excuse’. Exemption from attending school may be granted under the ETR Act on a specific or general order of the Minister for Education. The ETR Act sets out strict requirements for pupils to be employed in work experience, the minimum age for work experience students is 14 years.</p> <p><u>South Australia</u></p> <p>In South Australia, section 75(1) of the Education Act 1972 (SA) (the Education Act) requires a child of compulsory school age to be enrolled at a primary school or secondary school. A child of compulsory school age means a child of, or above, the age of 6 years but under the age of 16 years. The only exception to this requirement is if the child or young person receives a ministerial exemption under section 81A of the Education Act.</p> <p>Section 78 of the Education Act prohibits employers from employing children of compulsory schooling age during school hours or at a time of day or night, or in any labour or occupation that renders, or is likely to render, the child unfit to attend school or attain the proper benefits from such participation and attendance. A breach of these provisions is an offence that carries a maximum penalty of \$5000.</p> <p>Available statistical evidence verifies the effectiveness of education legislation in the social context that applies in South Australia, which has an advanced economy and social welfare provisions that aim to protect children and young people from exploitative working conditions, as well as minimise pressure for children to work to support family income.</p> <p>Section 3(2) of the Fair Work Act 1994 (SA) (the FW Act (SA)) also gives effect to the Convention by providing that the South Australian Industrial Relations Court and Commission, and other industrial authorities, are to have regard (where relevant) to the provisions of the Worst Forms of Child Labour Convention, 1999 (No. 182), which is contained in Schedule 9 of the FW Act (SA), in making determinations.</p> <p>However, it is noted that since South Australia’s referral of certain industrial relations powers to the Commonwealth in 2010, the FW Act (SA) only applies to the South Australian public sector, including most Government Business Enterprises, and local government sector. Private sector employees and employers are covered by the Fair Work Act 2009 (Cth). Electronic copies of South Australian legislation are available at: www.legislation.sa.gov.au .</p> <p><u>Northern Territory</u></p> <p>New provisions of the Education Act commenced on 1 January 2016. Relevant provisions include:</p> |
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| | | <ul style="list-style-type: none"> • Section 38(1) and (2) states that a child is of compulsory school age if the child is of or above 6 years and below the minimum school leaving age. The minimum school leaving age is the earlier of the age when the child completes year 10 of secondary education, or the age of 17 years. However, a child who completes year 10 and is below the age of 17 is still of compulsory school age unless the child participates full time in approved education or training or, if the child is of or above the age of 15, in paid employment or a combination of approved education or training and paid employment. • Section 39 makes it compulsory to enroll school-aged children in a school. <p>Section 40 makes it compulsory for an enrolled child to attend school.</p> <ul style="list-style-type: none"> • Section 44 allows the Chief Executive Officer of the Department of Education to exempt a child of compulsory school age from attendance at school for a specified period if satisfied it is appropriate to do so because of special circumstances (for example where the child is seriously ill). <p>Section 163 prohibits the employment of a child of compulsory school age during school hours, or at any time that is likely to cause the child to be unfit or unable to attend school at the times the child is required to attend school, or unfit or unable to understand instruction provided for the child when attending school.</p> <p>2015 AR: According to the Government, the following actions and measures had been taken as part of changes in law, practices and legislation:</p> <p><u>New South Wales</u></p> <p><i>Entertainment Industry Act 2013</i></p> <p>The New South Wales Government is committed to ensuring that vulnerable young performers in the entertainment industry are protected from all forms of exploitation. The new Entertainment Industry Act 2013 which commenced on 1 March 2014 provides significant information disclosure requirements protecting child performers.</p> <p><i>Explosives Act Regulation 2013</i></p> <p>In addition to the previously advised prohibition on employment of children for underground work in mines, further measures to protect children from dangerous activities are contained in the Explosives Act Regulation 2013:</p> <ul style="list-style-type: none"> • clause 9 prohibits grant of a security clearance for licence purposes to a person under 18 years of age; • clause 83 prohibits the sale of a distress signal, railway track signal, power device cartridge or ammunition to a person under 18 years of age; and • clause 94 prohibits persons under 21 from driving vehicles containing explosives. <p><u>Victoria</u></p> <p>In June 2014, a revised Mandatory Code of Practice for the Employment of Children in Entertainment (the revised Code) was made, pursuant to the Child Employment Act 2003 (Vic). The revised Code will continue to protect children from work that could be harmful to their health or safety, moral or material welfare, their development and attendance at school and their capacity to benefit from instruction. The revised Code continues to create binding obligation on employers of children.</p> <p><u>Australian Capital Territory</u></p> <p>The Children and Young People Act 2008 (ACT) seeks to protect children and young people from exploitation and risks they may face in the workplace and provides standards and regulations which work towards this goal.</p> <p>ACT legislation provides for compulsory education, ensuring the vast majority of children attend school on a full time basis. Under section 10 of the Education Act 2004 (ACT), children in the ACT must attend school if the child is at least 6 years old and remain in full-time education (at least 25 hours per week) until achieving Year 10. The exception to this requirement is if the child or young person has received an exemption certificate from the Government.</p> <p>Further, under section 782 of the Children and Young People Act (ACT), the employment of a child or young person must not adversely affect his or her ability to benefit from their education or training. An employer must not employ a child or young person of compulsory education age during school hours unless:</p> <ul style="list-style-type: none"> • the child or young person has received an exemption from the relevant school authority (this should be a rarity) or |
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| | | <ul style="list-style-type: none"> the child or young person is in a registered home school program (as school hours may vary). <p>Restrictions on the employment of children and young people are principally set out in:</p> <ul style="list-style-type: none"> the Children and Young People Act 2008 (ACT) Children and Young People Regulation 2009 (ACT) Children and Young People (Employment) Standards 2009 (No. 1) (ACT) Children and Young People (High Risk Employment) Declaration 2009 (No. 1) (ACT). <p>Further laws that protect children and young people at work in the Territory include the Fair Work Act 2009 (Cth), which is a Commonwealth law that applies wholly in the ACT, and the Criminal Code 2002 (ACT).</p> <p>2014 AR: The Government reported that the following actions and measures had been taken as part of changes in law, practices and legislation:</p> <p><u>In Commonwealth jurisdictions:</u></p> <p><i>National Children’s Commissioner</i></p> <p>Legislation to establish a National Children’s Commissioner within the Australian Human Rights Commission commenced on 1 July 2012 (see Part IIAA of the Australian Human Rights Commission Act 1986, available at http://www.austlii.edu.au/au/legis/cth/consol_a_ct/ahrca1986373/). The Commissioner, Ms Megan Mitchell, commenced her 5-year term on 25 March 2013 and will focus solely on the rights and interests of children, and the laws, policies and programs that impact on them. The establishment of the National Children’s Commissioner is a key action under the National Framework for Protecting Australia’s Children 2009-2020. For further information please see: http://www.humanrights.gov.au/our-work/childrens-rights.</p> <p><i>Fair Work Act 2009 (Cth) (Fair Work Act)</i></p> <p>The Fair Work Amendment Act 2013 was passed by the Australian Parliament on 27 June 2013 and contains a number of measures that are relevant to young people:</p> <ul style="list-style-type: none"> <i>Workplace Bullying:</i> From 1 January 2014, under section 789FC of the Fair Work Act, workers suffering from workplace bullying will be able to make an application to the Fair Work Commission (the Commission) for help to resolve the bullying. The Commission will be required to commence dealing with a matter within 14 days of an application being made. Where the Commission is satisfied that someone has been bullied, and there is a risk that the worker will continue to be bullied at work, the Commission will have the power to make an order to prevent bullying in the workplace in the future. A breach of an order made by the Commission will attract a fine of up to \$10,200, for an individual or \$51,000 for a body corporate. <i>Consultation arrangements for regular rosters and working hours:</i> The Fair Work Act (ss. 145A and 205) establishes new consultation requirements to ensure that employers genuinely consult with employees about changes to their regular rosters and ordinary hours of work. From 1 January 2014, an employer will be required to provide information to the employees about the change, invite employees to give their views about the impact of the change and to consider any views about the impact of the change given by the employees. The existing dispute resolution mechanisms continue to apply in relation to the new consultation requirements. <p><i>Model Work Health and Safety laws</i></p> <p>In 2013 Safe Work Australia released a draft model Code of Practice for Preventing and Responding to Workplace Bullying for public comment. A final code of practice will likely be released later in 2013.</p> <p><i>Anti-Trafficking measures</i></p> <p>On 27 February 2013 the Australian Government passed the Crimes Legislation Amendment (Slavery, Slavery-Like Conditions and People Trafficking) Act 2013 to amend the Criminal Code Act 1995 to address and reaffirm Australia’s commitment to combat forced labour, slavery and slavery like conditions and people trafficking. The Act inserted offences of forced labour, forced marriage, organ trafficking, harbouring a victim and trafficking in children. Penalties for the offences in Divisions 270 and 271 of the Criminal Code Act 1995 range from four years’ imprisonment for debt bondage, to 25 years’ imprisonment for slavery and trafficking in children.</p> |
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| | | <p><i>Commonwealth Procurement Rules</i></p> <p>The Department of Finance and Deregulation has responsibility for Australian Government procurement policy. The Commonwealth Procurement Rules (CPRs) are issued under Regulation 7 of the Financial Management and Accountability Regulations 1997. The CPRs articulate the Australian Government’s procurement policy, and prohibit agencies from seeking to benefit from supplier practices that may be dishonest, unethical or unsafe. This obliges agencies not to contract with suppliers that are known to engage in exploitative labour practices, such as slavery or human trafficking, or that use suppliers that engage in such practices.</p> <p>In March 2013, the then Prime Minister, Hon Julia Gillard MP, announced the Australian Government Anti-Slavery Initiative which seeks to ensure that no business providing goods or services to the Australian Government is tainted by human slavery, trafficking or related exploitative practices anywhere in the supply chain. The announcement highlighted areas of concern and included strategies for improving Commonwealth procurement arrangements. The Australian Government is developing strategies to implement this initiative, with a particular focus on educating and awareness raising amongst Commonwealth procurement officers to ensure they are aware of their obligations with respect to ethical procurement.</p> <p><u>In all jurisdictions:</u></p> <p>Under the 2009 Compact with Young Australians, all State and Territories have legislated from 1 January 2010 to require young people to participate in schooling (or an approved equivalent) to Year 10, and then participate full-time (at least 25 hours per week) in schooling, approved training or employment, or a combination of these activities, until age 17. The Compact is delivered under the National Partnership on Youth Attainment and Transitions, which was established by the Commonwealth and the States and Territories to support the achievement of a national Year 12 or equivalent attainment rate of 90 per cent by 2015. The National Youth Participation Requirement is a minimum national requirement that States can go beyond if they wish. The National Partnership on Youth Attainment and Transitions can be found at: http://www.coag.gov.au/coag_meeting_outcomes/2009-07-02/docs/NP_youth_attainment_transitions.pdf.</p> <p><u>In Victoria:</u></p> <p>In 2012, the Victorian Government announced the Refocusing Vocational Training in Victoria reform package and in 2013, the Next Steps for Refocusing Vocational Training – Supporting a Modern Workforce</p> <p>(See http://www.education.vic.gov.au/about/department/pages/refocusvet.aspx).</p> <p>Vocational training is generally provided after schooling is completed and most students are therefore over the age of 17 (i.e. over the age that the Minimum Age Convention applies). Compulsory education requirements in the Education and Training Reform Act 2006:</p> <p>ETR Act effectively means that the minimum age for full-time employment in Victoria is equivalent to the age for completion of compulsory schooling.</p> <p>In Victoria, general education is provided through the school system, which comprises both government run and independently operated schools. Three accredited senior school certificates are available: the Victorian Certificate of Education (VCE), the Victorian Certificate of Applied Learning (which is a more applied alternative to VCE) and the International Baccalaureate. These certificates are administered through the Victorian Curriculum and Assessment Authority (www.vcaa.vic.edu.au).</p> <p>As part of either the VCE or the Victorian Certificate of Applied Learning, young people have the option to include units of Vocational Education and Training in Schools (VETiS), which deliver all or part of the studies required to simultaneously complete nationally accredited vocational certificates.</p> <p>It is also possible to undertake a part-time school-based apprenticeship or traineeship, encompassing completion of at least one day a week with the employer or in training during the normal school week. Most young people undertake Work Experience while at school. Those undertaking VETiS may also undertake Structured Workplace Learning as part of these studies.</p> <p>While the vast majority of young people attend school to complete their senior certificates, the same qualifications are also delivered by some public training institutes and community and adult education providers.</p> <p>Under changes to the Education and Training Reform Act 2006:</p> |
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| | | <ul style="list-style-type: none"> • students undertaking senior secondary certificates with training providers or with senior secondary providers other than schools can undertake Work Experience or Structured Workplace Learning; and • students in post-secondary vocational education and training courses can only undertake Practical Placements. <p>In general, young people are required to remain in school until they are 17 years of age, unless they have already completed the final year of schooling (Year 12). However, they can leave school following Year 10, as long as they are engaged full-time in further education, training or employment.</p> <p><u>In Northern Territory:</u></p> <p>While not specifically related to child employment, the NT’s Criminal Code Act was amended in May 2013 specifically recognising an assault on workers as a crime. The new offence provision (section 188A), was inserted in Division 5 (Assaults), and applies when a worker (broadly defined and includes contractors, apprentices, volunteers or students) is unlawfully assaulted whilst he or she is working in the performance of his or her duties.</p> <p><u>In South Australia:</u></p> <p>The Work Health and Safety Act 2012, Work Health and Safety Regulations 2012 and associated Codes of Practice came into force in South Australia from 1 January 2013. This legislation was developed nationally for the purpose of harmonising workplace health and safety legislation across Australian jurisdictions. The Work, Health and Safety Act 2012 requires systematic procedures to protect the health and safety of all workers, including young workers. The Work, Health and Safety Act 2012 replaced the Occupational Health, Safety and Welfare Act 1986, and Regulations.</p> <p>2013 AR: According to the Government: The Work Health and Safety (WHS) Act and the model Work Health and Safety (WHS) Regulations were finalised at the end of 2011 and adopted by the jurisdictions. These standards apply in the Commonwealth, New South Wales, Queensland, the Northern Territory and the Australian Capital Territory from 1 January 2012. As from 1 January 2013, they will also apply in Tasmania and South Australia. In relation to the principle of the effective abolition of child labour, the WHS Regulations have age related restrictions for work considered to be particularly high risk or hazardous. A number of Codes of Practice have been developed to complement the model WHS Act and model WHS Regulations. They provide practical guidance to duty holders on how to meet their obligations under the model WHS laws and are admissible in court proceedings as evidence of whether or not a duty or obligation has been complied with. Courts may also have regard to a Code of Practice as evidence of what is known about a hazard, risk or control and to assist in determining what is reasonably practicable in the circumstances to which the code relates. The Codes of Practice on <i>How to Manage Work Health and Safety Risks</i>, <i>How to Consult on Work Health and Safety</i> and <i>How to Prevent Falls at Workplaces</i> outline specific requirements for considering the vulnerability of young workers. In particular these codes stress the importance of considering young workers when managing risks to health and safety, which is a requirement under the Act.</p> <p><u>Commonwealth</u></p> <p>At the Commonwealth level, legislation to establish a National Children’s Commissioner within the Australian Human Rights Commission commenced on 1 July 2012. The Commissioner will focus on promoting the rights, wellbeing and development of children and young people in Australia and is a key action under the National Framework for Protecting Australia’s Children 2009-2020. The new Commissioner is expected to take office by the end of 2012. Please refer to Part IIAA of the <i>Australian Human Rights Commission Act 1986</i>, available at http://www.austlii.edu.au/au/legis/cth/consol_a_ct/hrca1986373/.</p> <p>2012 AR: According to the Government: In addition to the role of national policy for occupational health and safety and workers’ compensation, Safe Work Australia has developed the model Work Health and Safety (WHS) Act and draft Regulations and Codes of Practice to create a set of uniform laws across Australia. The laws have been developed through a tripartite process involving Commonwealth, State and Territory governments and employer and employee representatives. Each state and territory is in the process of enacting legislation that mirrors the draft model WHS laws by January 1 2012. This legislation will replace current work health and safety laws in the Commonwealth, states and territories. [Safe Work Australia is an Australian Government statutory agency established in 2009, with the primary responsibility of improving work health and</p> |
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| | | <p>safety and workers' compensation arrangements across Australia. The agency is jointly funded by the Commonwealth, State and Territory governments facilitated through an intergovernmental agreement signed in July 2008].</p> <p><i>The model Work Health and Safety Act</i></p> <p>The model WHS Act has been developed to protect the health and safety of workers and improve safety outcomes in the workplace. It does so by placing duties on persons conducting a business or undertaking, officers and workers to ensure health and safety. Requirements in relation to young workers are implicit in the model WHS Act and are not set out in a specific clause. The primary duty under the model WHS Act requires a person conducting a business or undertaking to ensure the health and safety of all workers while they are at work in the business or undertaking. This means that all workers, including young workers, are protected while at work. This primary duty also requires a person conducting a business or undertaking to provide information, training, instruction or supervision that is necessary to protect all persons from risks to health and safety arising from work carried out as a part of the business or undertaking. In order to meet this duty a person who engages young workers may need to tailor the information and instruction they provide so that young workers can understand. Similarly, a person who engages young workers may need to provide additional supervision for young workers to meet the requirement of adequate supervision under the model WHS Act.</p> <p><i>The draft model Work Health and Safety Regulations</i></p> <p>The draft model WHS Regulations are being developed to complement and support the general duties under the model WHS Act. Importantly, they have age related restrictions for work considered to be particularly high risk or hazardous. The draft model WHS Regulations define high risk work as a class of work requiring a high risk work license, such as scaffolding work, dogging and rigging work, crane and hoist operation, forklift operation and boiler operation. In order to obtain a high risk work license an applicant must be at least 18 years of age and must also complete specified training. If a worker, whether under the age of 18 or not, is undertaking training in a specified unit of competency they are able to carry out the high risk work only if they are under the supervision of a person with a license. The draft model WHS Regulations also require specific safety measures in relation to diving work, which is a type of hazardous work. Under the draft model WHS Regulations a worker must have specific competencies and must be medically fit to carry out the work. A medical practitioner can place conditions on the type of work carried out by a person under the age of 18. The draft model WHS Regulations also place a restriction based on age on who can be a nominated supervisor for asbestos removal work which poses the most significant risks. A nominated supervisor who must be present or readily available during the removal of any friable asbestos or more than 10 square metres of non-friable asbestos must be at least 18 years of age.</p> <p><i>The draft model Work Health and Safety Codes of Practice</i></p> <p>Safe Work Australia has developed a number of draft model Codes of Practice as a part of the harmonization of WHS laws. They provide practical guidance to duty holders on how to meet their obligations under the model WHS Act and draft Regulations. The draft model Codes of Practice on How to Manage Work Health and Safety Risks, How to Consult on Work Health and Safety and How to Prevent Falls at Workplaces outline specific requirements for considering the vulnerability of young workers. In particular these codes stress the importance of considering young workers when conducting a risk assessment, which is a requirement under the model WHS Act. Codes of Practice are admissible in court proceedings under the model WHS Act and draft Regulations as evidence of whether or not a duty or obligation has been complied with. Courts may also have regard to a Code of Practice as evidence of what is known about a hazard, risk or control and to assist in determining what is reasonably practicable in the circumstances to which the code relates.</p> <p>2011 AR: New South Wales</p> <p>According to the Government: The Children and Young Persons (Care and Protection – Child Employment) Regulation 2005 has been repealed and replaced with the Children and Young Persons (Care and Protection – Child Employment) Regulation 2010, which commenced on 1 September 2010. The new Regulation makes some amendments to the provisions of previous Regulation. Clause 8 of the Regulation broadens the circumstances in which a fee may be reduced by the Minister, and also changes the amount that the Minister can reduce any fee payable, by up to 25 per cent. The new Regulation makes the following changes with respect to provisions in the Code of Practice (at Schedule 1 of the Regulation):</p> |
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| | | <ul style="list-style-type: none"> • Subclause 2(2), in relation to notice of work locations, has been changed requiring employers to now provide additional information of any risks in connection with the employment of the child. The notice must provide details of: <ul style="list-style-type: none"> Any risks existing in connection with the employment of the child, including risks associated with employing the child at the proposed place of work or location and risks associated with the child’s proposed role or employment schedule. – The strategies that the employer proposes to ensure compliance with this Code. – Any modifications to this Code that the employer may seek. • Clause 13, in relation to calculation of employment, makes changes with respect to travelling time and time spent at work that is to be included in the total period of employment during any 24 hour period. The following provisions have been changed: <ul style="list-style-type: none"> – Any time in excess of 90 minutes spent by the child in travelling from home to the place of work. – The whole of the time that the child is required to be at work excluding any rest break required by clause 14 (4) (b) or a rest break: <ul style="list-style-type: none"> (i) that is required by a provision of an industrial instrument or agreement, being a provision that prevails over this Code because of clause 12; and (ii) that the industrial instrument or agreement provides is not to be counted as part of the total number of hours worked. <p>Any time in excess of 90 minutes spent by the child in travelling home from the final place of work.</p> • Clause 14, in relation to general limitations on hours of work, makes the following changes to provisions: <ul style="list-style-type: none"> – A child cannot be employed for more than 5 consecutive days. – An employer must not employ a child for more than 4 hours on any day on which the child receives schooling. – An employer must not employ a child later than 8.00 pm on 3 consecutive days if the day following each day on which the child is employed is a day on which the child is to receive schooling. – The total period of time for which a child is employed during any week, when added to the time that the child receives schooling during that week, must not exceed 50 hours. • Clause 15 and Clause 16, in relation to the limitations on hours of work for entertainment or exhibitions, and live performances respectively, have increased the maximum days per week that a child aged between 6 months and 3 years can be employed to 2 days per week. • Clause 21, in relation to work directions in entertainment, exhibitions and photography, makes the following changes: <ul style="list-style-type: none"> – before a child is cast in a role or situation the employer must fully inform the child and a parent of the child of the nature of the role or situation and must take into account any comments of the child or the parent; – an employer must not employ a child in any situation in which the child or any other person has an exposed genital area, buttocks or, in the case of female children or other persons, breasts. <p>2010 AR: <i>Fair Work Act 2009 (Cth)</i> According to ACTU a significant development has been noted with respect to the passage of the FairWork Act 2009 which binds ‘national system employers’. It regulates the working conditions of young workers to the exclusion of state laws on child labour. The Fair work Act does not exclude state laws on child labour, in the extent that those laws deal with the times at which, or the periods during which, a child may be employed.</p> <p>2007 AR: C.182. Commonwealth Government – Federal Government legislation is fully compliant with C.182 and meets the objectives of C.182.</p> |
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| | | <p><i>New South Wales (NSW)</i> SW legislation is fully compliant with C.182.</p> <p>Victoria – Child Employment Act 2003 The Child Employment Act 2003 which commenced on 12 June 2004 (World Day against Child Labour) reformed Victoria’s long- standing law relating to the employment of children under the age of 15 years. It introduced maximum daily hours of work, mandated rest breaks, minimum ages for certain occupations, a prohibition against certain types of employment, a provision restricting children to “light work” and a system of police checks for employers and other persons directly supervising children. The Act’s definition of “light work” (reflecting the definition in C.138) is work or any other activity that:</p> <ul style="list-style-type: none"> – is not likely to be harmful to a child’s health or safety, moral or material welfare or development; and – is not such as to prejudice the child’s attendance at school or their capacity to benefit from instruction. <p>Under the Act, employment occurs when a child takes part or assists in any business, trade or occupation carried on for profit. It includes both paid and unpaid work and applies whether the child is engaged as an employee or an independent contractor.</p> <p>The Act provides that with limited exceptions, children between the ages of 13 and 15 years may be engaged only in light work, subject to the employment being authorized through the prescribed child employment permit system. Employment is prohibited during school hours unless a Ministerial exemption from school attendance has been obtained.</p> <p>The minimum age of employment does not apply to the employment of children in a family business or in the entertainment industry, and permits are not required for children employed in a parent’s family business. Nevertheless, various other protections of the Act do apply to children in these categories.</p> <p><i>Mandatory Code of Practice for the Employment of Children in Entertainment</i> In the legislative review leading up to Child Employment Act 2003 it was recognized that the entertainment industry was a special case and required separate treatment. The industry was therefore specifically exempted from the hours, rest break and minimum age provisions. In order to more appropriately regulate the employment of children under 15 years in the industry, the Act required the responsible Minister to make all reasonable efforts to make a mandatory code of practice within 12 months of the commencement of the Act. The Act also required the Minister to consult with representatives of employers and employees in the entertainment industry and with relevant Government agencies before making the code. Accordingly, the Minister for Industrial Relations made the Mandatory Code of Practice for the employment of Children in Entertainment in June 2005, and the Code came into effect on 1 November 2005. The Code regulates matters such as:</p> <ul style="list-style-type: none"> – daily hours of work; – spread of hours; – shifts and rest breaks; – provision of education; – a 40-hour limit on combined work and education; – travel; – food, drink and amenities; – parental contact; – supervision; – a prohibition on inappropriate roles or nudity; – specific provisions for babies. <p>Among other things, the Justice Legislation (Sexual Offences and Bail) Act amended the Crimes Act 1958 by amending existing child pornography offences and creating new offences relating to involving children in sexual performances. These measures have strengthened Victoria’s laws against the commercial sexual exploitation of children for the purposes of compliance with C.182.</p> <p>Queensland – The Queensland Government has enacted the <i>Child Employment Act 2006</i>, effective from 1. July 2006. The purpose of this Act and its supporting Regulation is to ensure that work does not interfere with children’s schooling and that children are prevented from performing work that may be harmful to their health or safety or their physical, mental, moral or social development Key</p> |
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| | | | <p>features of the Act and proposed regulation include:</p> <ul style="list-style-type: none"> – general minimum working age tied to compulsory schooling requirements while allowing children below this age to work only in certain circumstances and with various restrictions imposed; – restrictions on working hours for children yet to complete compulsory schooling. <p>The legislation is part of a package of reforms which includes a Child Employment Guide to explain the new laws. The Act is supported by a workplace health and safety code of practice for young workers. The Workplace Health and Safety Queensland Children and Young Workers Code of Practice cover both young workers under 18 years of age, and children who visit workplaces. The main features of the code are:</p> <ul style="list-style-type: none"> – identification of hazards of particular risk to young workers such as manual tasks, noise, chemicals, industrial equipment, machinery and workplace harassment; a risk management approach for young workers emphasizing workplace health and safety induction, training and supervision practices that should be followed. <p>A Code of Practice for the Employment of Young People in the Entertainment Industry will be introduced by the end of 2006.</p> <p><i>Western Australia</i> – The Western Australian Government has recently amended legislation further restricting the employment of children. The legislation prohibits the employment of children under the age of 15 except under strict conditions as specified under the Children and Community Services Act 2004.</p> <p>This legislation is provided additional support by the School Education Act 1999. This legislation has recently been amended taking the compulsory school age up to 16 as of 1 January 2006. This is further increasing to 17 on 1 January 2008.</p> <p><i>South Australia</i> – South Australian legislation is fully compliant with C.182.</p> <p><i>Northern Territory</i> – Northern Territory legislation is fully compliant with C.182.</p> <p>ACT – ACT legislation is fully compliant with C.182.</p> <ul style="list-style-type: none"> – <i>Tasmania</i> – As of 1 January 2006, Tasmanian legislation is fully compliant with C.182. |
| | | Judicial decisions | NIL. |
| | Exercise of the principle and right | Compulsory education | <p>YES.</p> <p>2011 AR: In 2009, the <i>Education Act 1990</i> was amended by the <i>Education Amendment Act 2009</i> to increase the school leaving age to effectively 17 (effective 1 January 2010). section 21B of this Act provides that a child is of compulsory school-age if the child is of or above the age of 6 and below the minimum school leaving age. The minimum school leaving age is the age at which the child completes Year 10 of secondary education, or the age of 17, whichever first occurs. However, if a child completes Year 10 but is not yet 17, the child must participate on a full-time basis in approved education or training or, if the child is above the age of 15, in paid work or a combination of both, until the age of 17.</p> |
| | | Minimum age | <p><i>NSW, South Australia, Northern Territory, ACT</i> – No update in these jurisdictions.</p> <p>2011 AR: The minimum age for admission to employment in Australia is predominantly determined by state and territory compulsory education legislation, which require children to remain in school or approved education until they turn 17. More specific rules regarding the employment of children (including the minimum age for admission to employment such as ‘light work’) differ from jurisdiction to jurisdiction, and feature in general workplace relations, child protection and occupational health and safety legislation and practices. Together, they provide a suite of protections that the Government considers give effect to C.138.</p> <p>2007 AR: C.138.</p> <p>Commonwealth Government – In relation to Minimum Age, it should be added that: Australian law and practice meets the objectives of C.138. This is achieved through State and Territory laws, which require children, aged up to 15 years (16 in Tasmania) to attend school; and laws providing for minimum ages for employment in selected occupations, child welfare, and occupational health and safety. These laws are implemented through State and Territory Government agencies including departments of education, community services, workplace</p> |

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| | | <p>relations, and health and safety. Enforcement is achieved through a variety of measures, including the use of inspection services, reference of child welfare matters to special children’s courts, and the imposition of fines and other penalties as appropriate.</p> <p>Queensland – The Government of Queensland has advised that it may experience some compliance difficulties with respect to the minimum age provisions of C.138 as the Child Employment Act 2006 allows children below the age of 13 years to work on rare occasions.</p> <p>Western Australia – The principle of effective abolition of child labour is recognized by the Western Australian Government. The Children and Community Services Act 2004 and The School Education Act 1999 demonstrate compliance in law and practice with the spirit of C.138 and C.182. That is, children are not exploited as a source of labour and are free to work so long as they are not engaged in the worst forms of child labour. These laws are implemented through State Government agencies including departments of education, community services, labour relations, and health and safety. Enforcement is achieved through a variety of measures, including the use of inspection services and the imposition of fines and other penalties as appropriate.</p> <p>South Australia – No changes to South Australian Law and Practice. It should be noted that in 2005, significant amendments were made to both the Occupational Health and Safety and Welfare Act 1986 and the Fair Work Act 1994. Northern Territory – No new comments, as at time of reporting, no changes in legislation with regard to C138 have been enacted.</p> <p>New South Wales (NSW), Victoria, ACT, Tasmania – No update in these jurisdictions.</p> |
| | <p>Worst Forms Child Labour</p> | <p>C.182 is ratified.</p> |
| | <p>Special attention to particular situations</p> | <p>2016 – 2017 AR: According to the Government:</p> <p>Victoria Particular attention has been paid to the increased use of the internet to recruit and employ children, in the entertainment and advertising sectors. Production companies and photographers are increasingly using social media as a means of casting children for film, television and modelling, and also using children’s images on websites and other social media. This enables employers to avoid the need to work through talent agents, which has the potential to increase non-compliance with the child employment permit system and the potential to increase the risks to children in having their images used online. A range of monitoring and other investigative methods are used to mitigate these risks and ensure employers who advertise on the Internet are compliant with the regulatory framework.</p> <p>South Australia SafeWork SA continues to provide targeted information to young workers, including students transitioning from school to work, or combining work and study, and employers. This promotes the effective abolition of child labour by raising awareness about industrial rights and responsibilities (at both a national and state level) and the minimum working age requirements that apply in South Australia pursuant to the Education Act.</p> <p>2015 AR: According to the Government:</p> <p>Australian Capital Territory The ACT has industry-specific legislation to regulate the minimum age for entry into certain occupations. The purpose of this legislation is to protect children and young people from engaging in occupations of high risk. Provisions from relevant legislation are:</p> <p>section 118 the Liquor Act 2010 section 80 of the Casino Control Act 2006</p> <ul style="list-style-type: none"> • the Prostitution Act 1992 • section 21 the Security Industry Act 2003 • the Children and Young People (Employment) Standards 2011 <p>Additional protections exist under ACT law for workers under the age of thirteen. For example, the Children and Young People (Employment) Standards 2011 (ACT) provides that:</p> <ul style="list-style-type: none"> • a child or young person must not be employed for more than one shift per day and can be employed for specific maximum hours based on their age |

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| | | <ul style="list-style-type: none"> • a child or young person must not be employed before 6:00am or sunrise (whichever is later), or after 10:00pm • employers must ensure children and young people take adequate rest breaks and have a minimum of 12 hours elapse between shifts • hours of work must not interfere with the child or young person’s participation in education or training, or the likelihood of benefiting from education or training. <p><i>In Western Australia</i></p> <p>The Department of Commerce’s education consultations and the provision of information is directed at major chain fast food industry employers. The Department also conducts education seminars at secondary schools, delivered to school children aged between 12 and 15 years, on the application of relevant legislative provisions.</p> <p>2014 AR: According to the Government: In Western Australia, education and inspection focus on fast food industry is ongoing. An education program commenced in January 2013, which involves personal visits to all the Perth metropolitan fast food outlets, to explain the children and employment laws and ensure that store managers understand their obligations regarding child employment. At the same time, labour inspectors continue to investigate complaints and prosecute as appropriate. However, it indicated that there have been no new developments in the Commonwealth jurisdictions over the last 12 months.</p> <p>2011 AR: <i>Memorandum of Understanding – safety for children in the workplace.</i></p> <p>In 2010 WorkSafe Victoria (the agency responsible for administering occupational health and safety, legislation in Victoria) and the Department of Innovation, Industry and Regional Development (responsible for administering child employment in Victoria) commenced the process of negotiating a Memorandum of Understanding to replace an earlier Memorandum of Understanding, negotiated in 2006 to ensure ongoing cooperation in relation to following shared objectives: (i) to ensure that a child’s health, safety, welfare or development is not harmed in the course of the child’s employment in any Victorian workplace; (ii) to ensure that as far as possible the same health and safety requirements are complied with in all workplaces in Victoria, and that these requirements are administered in a consistent manner; (iii) to assist Victorian workplaces achieve best practice levels of health and safety for employees and the public; (iv) to ensure the effective co-operation of both parties in the administration of their respective requirements in relation to scheduled matters; and (v) to ensure that consistent approaches to regulation are adopted and that duplication of activities of both parties is avoided as far as feasible in respect of facilities, operations, installations and workplaces over which both parties have regulatory jurisdiction.</p> <p><i>Guidance for Children in the Workplace</i></p> <p>In 2010, WorkSafe Victoria, in consultation with the Department of Innovation, Industry and Regional Development (responsible for administering child employment in Victoria), commenced a review of the guide <i>Keeping Children Safe in the Workplace</i> to reflect changes to the <i>Child Employment Act 2003</i> and ensure its currency.</p> <p>The guide, which was first issued in September 2006, is designed for workplaces where children work or visit, to identify hazards and implement safety controls to prevent injuries. The guide notes that while children under 15 may be employed in Victorian workplaces under the <i>Child Employment Act 2003</i>, due to their age, stage of physical and emotional development and their inexperience they are the most vulnerable employees in Victorian workplaces. The guide contains information on duties under the child employment and occupational health and safety legislation, and on making preparations for children in the workplace.</p> <p>2007 AR: <i>Queensland</i> – The Commission for Children and Young People Act 2000 requires the Commission in undertaking its statutory functions to give priority to the needs and interests of children and young people: (i) who are not able to protect their rights, interests and well-being; (ii) for whom there is no appropriate person to act on their behalf; (iii) who are disadvantaged because of a disability, geographic isolation, homelessness or poverty; or (iv) who are, or may enter, out-of-home care or detention. The Office for Youth within the Department of Communities provides Youth at Risk Outreach Services (YAROS) targeted at young people aged 12 to 25 who are identified as ‘at risk’ through a range of factors including homelessness, involvement in survival sex, and illicit drug use. YAROS aims to divert young people from risk-taking behaviour and to prevent their entry into the formal sex industry. YAROS conducts a range of prevention</p> |
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| | | <p>and early intervention activities that use a harm- minimisation approach, including information and referral, direct assistance, specialist counselling, support groups, health education (particularly for safe sex and drug use), and needle exchanges. There are seven Youth at Risk Outreach Services located across the state, with two services located in regional areas. Each service conducts activities according to the specific needs of the young people in the local area.</p> <p><i>Western Australia</i> – In Western Australia, young indigenous people are provided with the same opportunities for education, social and skills development as other children.</p> <p><i>ACT</i> – According to the Government of the Australian Capital Territory: the indigenous young people by providing them with the same opportunities for education, social and skills development as other children.</p> <p><i>Commonwealth Government, NSW, Victoria, South Australia, Northern Territory, Tasmania</i>: No update in these jurisdictions.</p> |
| | <p>Information / Data collection and dissemination</p> | <p>2015 AR: According to the Government: <i>Western Australia</i>: The Department of Commerce, Labour Relations (the Department) has conducted education seminars to 700 relevantly aged children on the application of the children in employment laws. The Department has also conducted an education campaign on the application of the children in employment laws directed at all employers in the regional area of Newman in Western Australia.</p> <p><i>Australian Capital Territory</i>: Employers of children and young people must comply with the 10 standards set out in <i>the Children and Young People (Employment) Standards (No 1) (ACT)</i>, made under section 887 of the <i>Children and Young People Act 2008 (ACT)</i>. Standard 1 applies to the employment of all child and young people under 18 years of age and standards 2-10 apply to the employment of all child and young people under 15 years of age.</p> <p>2007 AR: Commonwealth Government – According to Federal Government: the Australian Bureau of Statistics (ABS) population census currently collects work force data for children over 15 years. The ABS is currently considering expanding this to younger ages in response to reviews of child labour in various states.</p> <p><i>Victoria</i> – The Victorian Government has requested the Australian Bureau of Statistics (ABS) to collect child labour data for children under the age of 15 years and has contributed to development of a survey tool for use by the ABS in 2006.</p> <p><i>Western Australia</i> – The Australian Bureau of Statistics (ABS) population census collects work force data for children over 15 years.</p> <p><i>NSW, Queensland, South Australia, Northern Territory, ACT, Tasmania</i> – No update in these jurisdictions.</p> |
| <p>Monitoring, enforcement and sanctions mechanisms</p> | | <p>2019 AR: <i>New South Wales</i>: From 1 July 2018 to 30 June 2019 the Office of the Children's Guardian has undertaken 76 compliance operation visits, investigated 50 allegations of non-compliance (not part of the compliance operations figures), issued 4 employers with penalty infringement notices totalling \$7,150, issued warnings letters, and finalised 25 matters as 'No further action'. <i>Queensland</i>: The Queensland Office of Industrial Relations (OIR) administers the Industrial Relations Act 2016 (the IR Act) and provides an active industrial inspectorate to enforce and monitor compliance with the IR Act and the Child Employment Act 2006 (CE Act). There is an ongoing role for industrial inspectors who have direct contact with workplaces and are able to assess the situation with regards to alleged contraventions. In the 2018-2019 reporting period, OIR conducted 26 audits under the CE Act. There were no prosecutions of child exploitation commenced under the CE Act. <i>Western Australia</i>: The Western Australian Department of Mines, Industry Regulation and Safety (DMIRS) is responsible for ensuring that all businesses in Western Australia comply with the legal requirements for when children can work under the Children and Community Services Act 2004 (CCS Act). DMIRS undertook 179 inspections concerning the employment of children during the period 1 July 2018 to 30 June 2019 (including the 78 targeted inspections discussed in Question 3 below). Of these 170 have been concluded with no breaches found, the remainder are still under investigation. There were no prosecutions in the reporting period. <i>Western Australia</i>: The Western Australian Department of Mines, Industry Regulation and Safety (DMIRS) is responsible for ensuring that all businesses in Western Australia comply with the legal requirements for when children can work under the Children and Community Services Act 2004 (CCS Act). In the period 1 July 2018 – 30 June 2019, DMIRS conducted a proactive compliance campaign targeting horse riding schools and equestrian centres employing children under 15 years of age.</p> <p>2018 AR: According to the Government: <i>New South Wales</i>: in New South Wales, co-existing with the prohibition on children of compulsory school age being employed during school hours, there is a regulatory regime for specified areas of employment including artistic performances under the Children and Young Persons (Care and Protection) Act 1998 and the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015 and its Code of Practice. The legislation</p> |

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| | <p>continues to be administered by the Office of the Children’s Guardian (OCG). From 1 July 2017 to 18 June 2018 the OCG has:</p> <ul style="list-style-type: none"> • Undertaken 55 compliance operation visits • Investigated 17 allegations of non-compliance (not part of the compliance operations figures) • Issued 6 employers with penalty infringement notices totalling \$34,650 • Issued 6 warnings letters • Finalised 5 matters as ‘No further action’. <p><u>Queensland:</u> the Queensland Office of Industrial Relations (OIR) administers the Industrial Relations Act 2016 (the Act) and provides an active industrial inspectorate to enforce and monitor compliance with the Act and the Child Employment Act 2006. There is an ongoing role for industrial inspectors who have direct contact with workplaces and are able to assess the situation with regards to alleged contraventions. In the 2017-2018 reporting period, OIR conducted 31 audits of which there were zero prosecutions of child exploitation. Activities under the Child Employment Act 200. Activity: 2017/2018</p> <p>Audits: 31 Complaints: 3 Infringements: 0 Prosecutions: 0</p> <p><u>Australian Capital Territory:</u> in the Australian Capital Territory the following revised guidelines were implemented in the 2017-18 financial year:</p> <ul style="list-style-type: none"> • Children and Young People (Children and Youth Services Council) Establishment 2018 (No 1): The purpose of the Children and Youth Services Council is to provide the responsible Minister with independent advice on the implementation of A Step Up for Our Kids, the ACT Government’s five year Strategy for out of home care. Effective: 1 March 2018 to 28 February 2020 • Children and Young People (Approved Care and Protection Organisations – Intervention) Guidelines 2018 (No 1): this guideline, along with the Children and Young People Care and Protection Organisations – Suitability Approval Guidelines and the Children and Young People Approved Care and Protection Organisations – Monitoring Guidelines, will support the administration of the Act and includes provision to support the day-to-day operation of the legislation. This guideline also provides the criteria to be applied by the Human Services Registrar if undertaking an intervention in an approved care and protection organisation under the provisions of the Act. Effective: 18 May 2018 • Children and Young People (Approved Care and Protection Organisations – Monitoring) Guidelines 2018 (No 1): this guideline, along with the Children and Young People Care and Protection Organisations – Suitability Approval Guidelines and the Children and Young People Approved Care and Protection Organisations –Intervention Guidelines, will support the administration of the Act and includes provision to support the day-to-day operation of the legislation. This guideline also provides the criteria to be applied by the Human Services Registrar in monitoring an approved care and protection organisation’s ongoing suitability under the provisions of the Act. Effective: 18 May 2018 • Children and Young People (Care and Protection Organisations and Responsible Persons – Suitability Approval Application) Guidelines 2018 (No 1): this guideline, along with the Children and Young People Approved Care and Protection Organisations – Monitoring Guidelines, and the Children and Young People Approved Care and Protection Organisations –Intervention Guidelines, will support the administration of the Act and includes provision to support the day-to-day operation of the legislation. <p>2015 AR: According to the Government:</p> <p>New South Wales</p> <p>Under the Entertainment Industry Act 2013, a Child Performer Representative, before entering into an entertainment industry agreement with a child performer, must provide the parents of the child performer with a fact sheet which sets out the employer’s obligations relating to the conditions of employment of minors under the Children and Young Persons (Care and Protection) Act 1998 and its Regulations. These include supervision requirements, the maximum hours of employment and also information about education and health. The fact sheet is provided by the Office of the Children’s Guardian and is available at: http://www.kidsguardian.nsw.gov.au/Working-with-children/Children-s-employment/information-for-talent-agents.</p> |
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| | <p>In addition, the new laws require performer representatives to provide performers with an ‘Information for Performers’ fact sheet prior to entering into an entertainment industry agreement. This fact sheet is designed to help performers understand their rights and obligations under the Entertainment Industry Act 2013 and is available at: www.industrialrelations.nsw.gov.au/biz_res/oirwww/pdfs/Fact_sheet_for_performers.pdf</p> <p>The Office of the Children’s Guardian is responsible for regulating children’s employment in New South Wales under Chapter 13 and Schedule 2 of the Children and Young Persons (Care and Protection) Act 1998 and the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010 (the Regulation).</p> <p>The Children’s Guardian monitors compliance with the Regulation through discussing particular employment arrangements with employers, key staff (for example, safety officers or nurses) and parents of employed children. During these discussions, the Children’s Guardian may require changes to particular employment arrangements to promote the safety, welfare and well-being of the child employee.</p> <p>The Children’s Guardian also conducts site visits to monitor compliance with the Regulation. In the 2013/2014 financial year the Office of the Children’s Guardian conducted 56 location visits. The Children’s Guardian may also call representatives of an employer during the course of a child’s employment, to check the employment is being managed in accordance with the requirements of the Code of Practice.</p> <p>The maximum penalty for employing a child in prescribed employment without authorisation by the Children’s Guardian, or in contravention of an authority, is 100 penalty units – see s223 of the Act. During 2013/2014 the Children’s Guardian focused on a number of community engagement strategies including the targeting of Child Performer Representatives, as outlined above, to ensure that they do not provide children to an unauthorised employer.</p> <p>The maximum penalty for endangering children in employment is 200 penalty units (see section s222 of the Act). An offence committed by a corporation is an executive liability offence attracting executive liability for a director or other person involved in the management of the corporation. During 2013/2014 the Children’s Guardian issued five formal breach notices and 38 warnings and directions to take remedial action. Where a breach notice is issued, employers lose their entitlement to discounted employer authorities for two years. The Children’s Guardian asks agencies that receive breach notices or warnings/directions to confirm remedial action has been taken.</p> <p>Victoria</p> <p>The Information and Compliance Unit, Department of State Development, Business and Innovation continues to regulate child employment and has consulted extensively with stakeholders to create the revised Code (see response Question 2). Victoria referred its first case for prosecution for an alleged breach of the Child Employment Act 2003 in 2013-14. The matter is currently before the courts. Additionally, in 2013-14, six employers were issued with formal breach notices for offences under this Act, as a result of 72 investigations.</p> <p>The Employment, Information and Compliance Unit conducted 120 investigations into child employment to check compliance with the Act, the Mandatory Code and specific conditions of child employment permits. Compliance methods included field visits, inspections, discussions and other monitoring strategies. The Employment, Information, and Compliance Unit provided advice on 11 occasions and 14 breaches resulted in formal warnings. There was one prosecution under the Child Employment Act 2003, where the employer pleaded guilty. The employer incurred significant fines and costs.</p> <p>Western Australia</p> <p>Previous prosecutions of identified breaches of child employment laws has led to some fast food industry employers introducing information technology programmes that prohibit children working outside hours prohibited under the Children and Community Services Act 2004 (WA).</p> <p>2007 AR:</p> <p>Victoria – Child Employment Officers (CEOs) have been appointed under the Child Employment Act 2003 with the primary function of providing information to employers, parents, children, schools and the community about the Act, and investigating applications for permits. CEOs are also responsible for ensuring compliance with the legislation.</p> <p>Accordingly, their powers include a right of entry to inspect a workplace and the right to require production of documents. CEOs are authorised to vary or cancel a child’s employment at any time by written notice. The Act provides a range of offences with appropriate penalties. CEOs work co-operatively with officers of WorkSafe Victoria to ensure that the occupational health and safety of children in employment is protected.</p> <p>Queensland – The Queensland Government reports that there is an ongoing role for industrial inspectors who have direct contact with workplaces and are able to assess the situation with regard to child labour.</p> |
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| | | <p>Furthermore, the inspectors have been empowered under the Child Employment Act 2006. Inspectors' functions under this Act are to: (i) monitor compliance with the Act, and; (ii) investigate and, when necessary, take action to deal with alleged contraventions of the Act; and inform children, parents and employers of their rights and obligations.</p> <p>Western Australia – Industrial Inspectors are responsible for enforcing the employment aspects of the <i>Children and Community Services Act 2004</i>. To date there have been no prosecutions under this legislation relating to the employment of children.</p> <p>South Australia – According to the South Australia Government: the Industrial and Employee Relations Act (IER Act), 1994 provides that an employer could be subject to prosecution in case of breach of its disposition. Furthermore, the Government indicates that a number of bodies have been created to realize the PR: (i) the Industrial Relations Court of South Australia; (ii) the Industrial Relations Commission of South Australia; (iii) the Industrial Relations Advisory Committee;</p> <p>(iv) the Employee Ombudsman; (v) the inspectors located in the Industrial Services Division and the Occupational Health, Safety and Welfare Advisory Committee.</p> <p>Northern Territory – The Northern Territory Education Act foresees penalty (ranging from fines to imprisonment) for the employment of a child of compulsory school age.</p> <p>Commonwealth Government, NSW, ACT, Tasmania – No update in these jurisdictions.</p> |
| | <p>Involvement of the social partners</p> | <p>2013 AR: According to the Government: Tasmania – Consultation regarding Tasmania's child labour laws were carried out in the second half of 2011 with the involvement of both government and non- government bodies, including the Australian Council of Trade Unions (including Unions Tasmania) and the Tasmanian Chamber of Commerce and Industry.</p> <p>2012 AR: According to the Government: Safe Work Australia has developed the model Work Health and Safety (WHS) Act and draft Regulations and Codes of Practice to create a set of uniform laws across Australia. The laws have been developed through a tripartite process involving Commonwealth, State and Territory governments and employer and employee representatives. Each state and territory is in the process of enacting legislation that mirrors the draft model WHS laws by January 1 2012.</p> <p>2007 AR:</p> <p>Victoria – The Child Employment Act 2003 required the responsible Minister to consult with representatives of employers and employees in the entertainment industry and with relevant Government agencies before making the Mandatory Code of Practice for the Employment of Children in Entertainment.</p> <p>The Government consults with a wide range of stakeholders in developing legislation.</p> <p>Queensland – In 2001 the Queensland Government established the Commission for Children and Young People, now the Commission for Children and Young People and Child Guardian, to promote and protect the rights, interests and wellbeing of children in Queensland.</p> <p>The Young Workers' Advisory Service (YWAS) was established in April 2002 to assist workers under the age of 25 years with queries relating to their working entitlements.</p> <p>The service offers advice and represents young workers in cases taken to the Queensland Industrial Relations Commission or Queensland Anti-Discrimination Commission on workplace issues such as bullying, discrimination, sexual harassment or dismissal.</p> <p>Western Australia – Consultation with key stakeholders has occurred in the development of the <i>Children and Community Services Act 2004</i>. The consultation has been with not only government and non- government areas but also children, families and communities.</p> <p>Commonwealth Government, NSW, South Australia, Northern Territory, ACT, Tasmania – No update in these jurisdictions.</p> |
| | <p>Promotional activities</p> | <p>2019 AR: Western Australia: The recent proactive compliance campaign about the employment of children in the horse riding and equestrian industry has highlighted the importance of child employment laws and been successful in raising employer knowledge about the requirements of the <i>Children and Community Services Act 2004</i>.</p> <p>2017 AR: According to the Government: the main promotional activities have been a) research; b) information/data compilation; c) training; and d) awareness-raising. The specific activities in the various Australian jurisdictions are the following:</p> <p>Commonwealth</p> <p>There has been no change since the previous update.</p> <p>Other Jurisdictions: Victoria</p> <p>The Employment, Information and Compliance Unit has conducted a range of information and advice presentations and sessions about the requirements for child employment: including to students, groups of staff of a large employer (television network) to increase their understanding of child employment regulation, peak bodies and casting agents. The Entertainment industry working party has met over the reporting period, to facilitate industry and community input into policy development and to raise awareness of child employment legislation.</p> |

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| | <p>Queensland</p> <p>The Queensland Office of Industrial Relations (OIR) administers the Industrial Relations Act 2016. OIR also provides an active industrial inspectorate to enforce and monitor compliance with the Industrial Relations Act 2016 and the Child Employment Act 2006. Inspectors investigate and deal with alleged contraventions. There is an ongoing role for industrial inspectors who have direct contact with workplaces and are able to assess the situation with regards to child labour. In the course of OIR operations, no specific evidence has been found of child exploitation. OIR continues to investigate any complaints of allegations of child exploitation.</p> <p>Queensland's Child Employment Act 2006 and the accompanying Child Employment Regulation 2016 apply to all children under the age of 18 years, however the bulk of the limitations imposed through the Act and Regulation apply to children under the age of 16 years who are required to be enrolled in school. These limitations severely restrict the employment of most children below the age of 16 years.</p> <p>Protections apply to ensure children are only employed in a manner consistent with the child's fullest physical and mental development. For instance, the overarching object of the Act, to safeguard working children by preventing them from performing work that may be harmful to their health or safety or physical, mental, moral or social development, applies to all children. In addition, under the Child Employment Act 2006 the Chief Executive can prohibit a child from performing work by issuing a work limitation notice, if it is reasonably believed that the work may be harmful to their health or safety or their physical, mental, moral or social development.</p> <p>OIR and Queensland Treasury provides education of state child employment laws through the Government's business industry portal website which highlights the major areas of child employment laws including restrictions on school aged or young children working, authority to work, parental consent, special circumstance certificates, general requirements for all children under 18 years of age, and children in the entertainment industry. In addition to the website information, OIR provides an information service to the public on the relevant areas of child employment laws regulated by the State.</p> <p>OIR also investigates complaints received from the public concerning possible contraventions of the Child Employment Act 2006 and Child Employment Regulation 2016.</p> <p>OIR undertakes education campaigns, assistance and advice to employers and employees. OIR programs and initiatives which involve awareness raising matters relating to young workers include:</p> <p>Child safety in home workplaces awareness campaign</p> <p>The Queensland Government understands that every year children are seriously injured or killed in home-based workplaces because safety has been overlooked or risks have not been controlled with young people in mind. In an effort to minimise the occurrence of such events, the Child safety in home workplaces awareness campaign was launched in May 2017. This campaign seeks to raise awareness amongst persons who conduct their business from home by educating them on, and making them aware of, the risks that their workplace may present to their children. A short film and related materials is also included on the campaign's webpage.</p> <p>Young worker safety toolkit</p> <p>The Young worker safety toolkit commenced in November 2015 and helps employers of young workers, education and training providers, youth service providers and parents and caregivers engage with young people about work health and safety. It encourages actions that build the capabilities of young workers to be safe and productive at work, rather than just relying on them to speak up or ask the right questions. The toolkit includes a range of resources such as films, presentation templates and checklists that are based on an understanding of how young people learn and communicate with others.</p> <p>Ride Ready campaign</p> <p>Quad bikes are one of the leading causes of injuries and fatalities on Queensland farms, with 69 quad bike-related fatalities occurring in Queensland since January 2001. In an effort to reduce the number of deaths and injuries caused by quad bikes the Queensland Government implemented in June 2016 the Ride Ready campaign, which aims to raise awareness of the risks associated with quad bike use and to improve a rider's safety skills. As 20% of Queensland's 69 fatalities were children under the age of 16, a key aim of the campaign is the reduction in the rate of injuries and fatalities suffered by children due to quad bike use. To assist in achieving this aim a film and educational material specifically focusing on the dangers posed to children by quad bikes has been developed and is available on Workplace Health and Safety Queensland's (WHSQ) website: https://www.worksafe.qld.gov.au/</p> <p>Farm safety calendar competition</p> <p>In an effort to increase farm safety awareness amongst children WHSQ held a farm safety calendar competition in May 2017, which encouraged primary school children to engage with and draw and colour one of four pictures that contained farm specific safety messages.</p> |
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| | <p>Western Australia</p> <p>In 2017, Western Australia conducted a proactive compliance campaign about the employment of children in the fast food industry. Fast food employers across the Perth metropolitan area have been provided with an information pack about the employment of children under the Children and Community Services Act 2004. Information has also been sent to the offices of relevant franchise groups. The pack included a self-audit checklist tool to help employers to conduct a self- audit of compliance with child employment laws.</p> <p>South Australia</p> <p>SafeWork SA provides young persons thinking about starting work, or employers who are thinking about employing a young worker, with guides on their respective employment rights and responsibilities. The information is made available through the SafeWork SA website and downloadable smart phone publications.</p> <p>The Young Workers: A guide to rights and responsibilities at work for young people and employers covers some of the important aspects that need to be considered by both young workers and their employers, including minimum working age, pay and employment conditions, traineeships and apprenticeships, probationary periods, work experience, trial work, work health and safety and workplace behaviour.</p> <p>This guide is available on the SafeWork SA website: www.safework.sa.gov.au.</p> <p>Northern Territory</p> <p>The Northern Territory Government School Attendance Strategy 2016 – 2018, Every Day Counts, continues to provide a coordinated whole- of-government approach for improving school attendance and the learning, wellbeing and engagement of young Territorians. The strategy's vision is that young people in the Northern Territory of compulsory school-age attend school, or an approved learning program, every day to improve their education, employment and health outcomes. Young people are supported to engage in schooling by strengthening partnerships with families, communities, schools and government agencies, and through providing services that reduce barriers to attendance in supporting the establishment of strong patterns of attendance.</p> <p>Promoting school attendance is complemented by the Remote School Attendance Strategy, a Commonwealth Government funded initiative which continued throughout 2016–17. The strategy employed local community members to increase school attendance in targeted remote schools.</p> <p>The Department of Education employs attendance and truancy officers who undertake compliance as required under the Education Act. In 2016–17, activities included developing 2209 attendance plans, issuing 1359 compliance and 309 infringement notices and processing 266 suspension of welfare payments. In the more serious cases of non- attendance at school, 32 parents were charged with an offence under section 40 of the Education Act to address persistent student absences.</p> <p>Remaining Jurisdictions (NSW, Tas, ACT)</p> <p>There has been no change since the previous update.</p> <p>2016 AR: According to the Government:</p> <p><u>New South Wales:</u></p> <p>The Office of the Children’s Guardian has a robust compliance program whereby regular compliance operations are undertaken to test employers’ compliance with the Children and Young Persons (Care and Protection) Act 1998 and the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015 which relate to the employment of children in the entertainment, exhibition, recorded performance, still photography, and door-to-door sales industries. These operations increase the Children’s Guardian’s presence in the sector and also opportunities to educate employers on their obligations and how these obligations keep children safe.</p> <p><u>Victoria</u></p> <p>The Employment, Information and Compliance Unit has conducted a range of information and advice presentations and sessions about the requirements for child employment: including to students, groups of staff of a large employer (television network) to increase their understanding of child employment regulation, peak bodies and casting agents. The Entertainment industry working party has met over the reporting period, to raise awareness of child employment legislation.</p> <p><u>Western Australia</u></p> <p>The Department of Commerce, Labour Relations and Industry Development Division has conducted education seminars to 1228 relevantly aged children on the application of the children in employment laws.</p> <p><u>South Australia</u></p> <p>As part of the 2015 National Safe Work Month events SafeWork SA (Attorney-General’s</p> |
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| | <p>Department) ran a series of public seminars including a Youth Forum entitled ‘From Classroom to Workplace: Youth Employment Q&A’. The forum was targeted at young workers, including school aged children and students transitioning from the classroom to paid work, employers, trainers and educators of young workers. The primary aim of the seminar was to raise awareness of workplace rights and responsibilities and to provide information to young workers on where they can seek help and advice on workplace issues. The Q&A panel was comprised of a number of social partners including representatives from unions, industry and government. SafeWork SA also provides online guidance material targeted at young workers and employers. The guidance material highlights the minimum working age requirements under the Education Act. This information is available on the SafeWork SA website: www.safework.sa.gov.au.</p> <p><u>Northern Territory</u></p> <p>The Education Act (commenced 1 January 2016) is administered by the Northern Territory Department of Education. The Northern Territory Government School Attendance Strategy 2016-2018, Every Day Counts, provides a planned and systemic approach for improving school attendance and the learning, wellbeing and engagement of young Territorians. Further information will be available from July 2016 at https://education.nt.gov.au/strategic-plan-and-key-initiatives. The Care and Protection of Children Act is administered by the Department of Children and Families. Section 204 and 205 of the CAPAC provide for inspections and for the requirement of employers to provide specific information about the employment.</p> <p>2015 AR: According to the Government: In <i>Western Australia</i>, the Department of Commerce, Labour Relations conducts education consultations directed at major chain fast food industry employers specifically targeting supervisors through direct visits to worksites and distribution of information material. The Department also conducts education seminars at secondary schools, delivered to school children aged between 12 and 15 years, on the application of relevant legislative provisions.</p> <p>2014 AR: According to the Government: In South Australia, the South Australian Government is currently supporting two new projects that are currently still in progress, to promote protection of young workers, including: (i) the Young Workers: Work Health and Safety, research project, conducted by the Central Queensland University on behalf of SafeWork SA for the purpose of developing a comprehensive new work health and safety strategy for young workers; and (ii) the development of a comprehensive guide to the current industrial relations system and the e protections available to young workers in South Australia by SafeWork SA on behalf of the South Australian Government. The South Australian law and practice complies with C.138. The purpose of these projects is to increase community awareness and support for the rights of young workers.</p> <p>Nevertheless, the Government indicated that there have been no new developments in the Commonwealth jurisdictions over the last 12 months.</p> <p>2013 AR: According to the Government: Several promotional activities have been carried out by state and territory governments:</p> <p>Tasmania – The Tasmanian Minister for Workplace Relations conducted a review of Tasmania’s child labour laws in the second half of 2011.</p> <p>Victoria – The Department of Business and Innovation is working with key stakeholders to review and update the Mandatory Code of Practice for the Employment of Children in Entertainment. The Department of Education and Early Childhood Development is working to update policy and procedures related to compulsory schooling exemptions. Children must have a formally approved exemption if they are not participating fully in an approved education programme.</p> <p>2012 AR: According to the Government: The Young Worker Toolkit is a web-based resource that has been optimised for smart phone use to help young people in the workplace (information about employment issues, frequently asked questions, toolkit, etc.). The Toolkit can be found at youngworkertoolkit.youth.gov.au.</p> <p>2011 AR: According to the Government: The Fair Work Ombudsman released in 2009 the following two best practice guides that are relevant to young workers:</p> <ul style="list-style-type: none"> • A guide for young workers (http://www.fwo.gov.au/Best-Practice-Guides/Documents/04-A-guide-for-young-workers.pdf). • An employer’s guide to employing young workers (http://www.fwo.gov.au/Best-Practice-Guides/Documents/05-An-employers-guide-to-employing-young-workers.pdf). <p>The ACT Government is producing a booklet for young people entitled <i>Young People at Work in the ACT – What you need to know</i>. This will be available to young people electronically, at schools and at youth services by November 2010.</p> <p>2007 AR:</p> <p>Victoria – A primary function of Child Employment Officers appointed under the Child Employment Act 2003 is to provide information to employers, parents, children, schools and the</p> |
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| | | <p>community about the Act.</p> <p>Queensland – In addition to offering advice and representation to young workers, the Queensland Young Workers’ Advisory Service (YWAS) educates young people at schools and TAFE colleges about their workplace entitlements, rights and obligations.</p> <p>Western Australia – The Department of Consumer and Employment Protection (DOCEP) is empowered with the authority to investigate and enforce laws dealing with the employment of children. As such DOCEP also undertakes an educational role. DOCEP has information available on their website and has emailed interested parties via the newsletter subscription service to inform the public of Western Australia about changes such as the new laws affecting the employment of children. Key employee and employer associations are also notified in writing of laws affecting employment of children.</p> <p>Commonwealth Government, NSW, South Australia, Northern Territory, ACT, Tasmania – No update in these jurisdictions.</p> |
| | <p>Special initiatives-Progress</p> | <p>2018 AR: According to the Government:</p> <p>New South Wales: in 2016, the NSW Parliament established a select committee to inquire into and report on human trafficking in New South Wales, and in particular:</p> <ul style="list-style-type: none"> a) the role and effectiveness of New South Wales law enforcement agencies in responding to human trafficking including: <ul style="list-style-type: none"> i. how New South Wales law enforcement agencies respond to human trafficking, including slavery, slavery like practices such as servitude, forced labour, and people trafficking, ii. the influence of organised crime in human trafficking in New South Wales, (b) the prevalence of human trafficking in New South Wales, (c) the effectiveness of relevant legislation and policies, (d) the practical measures and policies including security measures to protect New South Wales identity documents that would address human trafficking in New South Wales, and (e) other related issues. <p>On 19 October 2017, the Committee published its final report and recommendations.</p> <p>Western Australia: in the period 1 July 2017 – 30 June 2018, the Western Australian Department of Mines, Industry Regulation and Safety continued and expanded the proactive compliance campaign about the employment of children provisions of the Children and Community Services Act 2004 applicable to the fast food industry. Under this campaign, fast food employers across the State were provided with an information pack about employment of children in this industry and in 2017/18 over 300 businesses were included in the campaign. Following the education component of the campaign, industrial inspectors at the Department conducted compliance audits on selected businesses in the industry to ensure children were being employed in accordance with the Children and Community Services Act 2004 provisions.</p> <p>2016 – 2017 ARs: According to the Government:</p> <p>Victoria</p> <p>Child labour is regulated in Victoria through the implementation and enforcement of a permit system. The permit system has been upgraded and is now available online through devices including smart phones, tablets and a range of browsers. This has increased access in remote and regional areas. The application process is constantly monitored and improvements implemented on an ongoing basis. Child labour is monitored and enforced by Child Employment Officers. There are twelve Child Employment Officers, as of 22 July 2016.</p> <p>2015 AR: According to the Government: In Victoria, the Mandatory Code of Practice for the Employment of Children in Entertainment was amended and relaunched in October 2014. A significant budget was available for the development of extensive materials relating to the new requirements including the production of videos, glossy fact sheets, a Guide to the Code and online versions for the public to access. Two large public events occurred to inform the community and industry partners of the amended Mandatory Code of Practice. Child labour is regulated in Victoria through the implementation and enforcement of a permit system. The permit system has been upgraded and is now available online through devices including smart phones, tablets and a range of browsers. This has increased access in remote and regional areas. Child labour is monitored and enforced by Child Employment Officers. There are twelve Child Employment Officers, as of 6 July 2015.</p> <p>2014 AR: According to the Government: In Victoria, the Victorian Department of State Development, Business and Innovation is working with key stakeholders to review and update the Mandatory Code of Practice for the Employment of Children in Entertainment. The Department commenced an awareness raising campaign in the retail and hospitality sectors about child employment regulation. Stage 1 of the campaign involved Child Employment Officers visiting all major shopping centres in the Melbourne metropolitan area to provide advice and written information to business owners and key retail associations have been contacted with</p> |

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| | | <p>information about child employment regulation, which they are encouraged to share with their membership. However, the Government stated that there have been no new developments in the Commonwealth jurisdictions over the last 12 months.</p> <p>2012 AR: According to the Government: On 8 July 2011 the Australian Government Department of Education, Employment and Workplace Relations released a new online resource to help inform young people of their rights and obligations under the <i>Fair Work Act 2009</i> and assist them with any employment issues. The Young Worker Toolkit is a web-based resource that has been optimised for smart phone use to help young people in the workplace. It provides in one place all the information about employment issues and the industrial relations system that young people need. The Toolkit deals with common questions and issues that young people confront every day at work. Topics covered by the Toolkit include: getting started and the types of employment; pay and conditions; workplace safety; bullying and harassment; fair dismissal; and where to go for help. The Toolkit is available to all young people as a web based resource with links from the youth.gov.au and Fair Work Ombudsman websites. Promotion of the Toolkit has been targeted to those most in need, including to students, young workers and educational institutions. The Toolkit can be found at youngworkertoolkit.youth.gov.au.</p> <p>2011 AR: Under the National Youth Participation Requirement, young people in every Australian jurisdiction are now required to participate in schooling (or an approved equivalent) to Year 10, and then participate full-time (at least 25 hours per week) in education, training or employment, or a combination of these activities, until age 17. The effect of this provision means that the age at which children may be admitted to full-time employment is at the completion of Year 10, which is generally 15 or 16.</p> <p>2007 AR: <i>Commonwealth Government</i> – Australia has made firm progress towards ratification of C.182. Law and practice in all jurisdictions now complies with the Convention. [Report filed before the ratification of C.182.]</p> |
| CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT | According to the social partners | Employers' organizations NIL. |
| | | Workers' organizations NIL. |
| | According to the Government | NIL. |
| TECHNICAL COOPERATION | Request | NIL. |
| | Offer | NIL. |
| EXPERT-ADVISERS' RECOMMENDATIONS-OBSERVATIONS | <p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) were concerned that few governments, such as Australia (and three other governments), had indicated their current lack of effort to ratify C.138 and/or C.182. They recalled the following: "(...) in last year's Introduction we noted remarks from some constituents (the governments of Australia and New Zealand and Business New Zealand – BNZ) concerning the potentially negative effect of ratifying Convention No. 138 for young persons to enter the labour market. We pointed out that these concerns can be adequately addressed through the various possibilities inherent in the principle, for instance light work, or vocational training and apprenticeship. It is crucial to discuss this in tripartite consultation in each country, and we note that both of the social partners in New Zealand are commenting on this issue: while BNZ opposes the ratification of Convention No. 138, the New Zealand Confederation of Trade Unions (NZCTU) recommends ILO assistance to seek possible legislative action to allow light work from 13 years of age and set the general minimum age at 16 years, in line with Convention No. 138. We hope there will be continued efforts by the Office and, in particular, the International Programme on the Elimination of Child Labour (IPEC) on this issue." (cf. paragraph 57 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2005 AR: The IDEAs listed Australia among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification. They also mentioned the following: "Australia, New Zealand and the United States have expressed their intention to renew their assistance to other States and international organizations to combat child labour, including in its worst forms. Their assistance ranges from financial aid to participation in international forums. It is important to maintain a continuity of social programmes to combat child labour. Once programmes are interrupted, it is difficult to maintain the momentum. The sustainability of such programmes will be enhanced with the active support of employers' and workers' organizations" (cf. paragraphs 13 and 234 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> | |
| GOVERNING BODY OBSERVATION-RECOMMENDATIONS | <p>2015 AR: At its March 2014 Session, the Governing Body invited the Director-General to: (a) take into account its guidance on key issues and priorities with regard to assisting member States in their efforts to respect, promote and realize fundamental principles and rights at work; and (b) take account of this goal in the Office's resource mobilization initiatives.</p> <p>2013 AR: At its November 2012 Session, the Governing Body requested the Director-General to take full account of the ILO Plan of Action on Fundamental Principles and Rights at Work (2012-2016) and allocate the necessary resources for its implementation. This plan of action is anchored in the universal nature of the fundamental principles and rights at work (FPRW), their inseparable, interrelated and mutually reinforcing</p> | |

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| | <p>qualities and the reaffirmation of their particular importance, both as human rights and enabling conditions. It reflects an integrated approach, which addresses both the linkages among the categories of FPRW and between them, and the other ILO strategic objectives in order to enhance their synergy, efficiency and impact. In this regard, freedom of association and the effective recognition of the right to collective bargaining are particularly emphasized as enabling rights for the achievement of all these strategic objectives.</p> <p>2011 AR: At its March 2010 Session, the Governing Body decided that the recurrent item on the agenda of the 101st Session (2012) of the International Labour Conference should address the ILO strategic objective of promoting and realizing fundamental principles and rights.</p> <p>2009 AR: During its March 2009 Session, the Governing Body included the Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work on the agenda of the 99th Session (2010) of the International Labour Conference.</p> |
| <p>INTERNATIONAL LABOUR CONFERENCE RESOLUTION</p> | <p>2013 AR: In June 2012, following the recurrent item discussion on fundamental principles and rights at work, under the ILO declaration on Social Justice for a Fair Globalization, 2008 and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, the International Labour Conference adopted the Resolution concerning the recurrent discussion on fundamental principles and rights at work. This resolution includes a framework for action for the effective and universal respect, promotion and realization of the FPRW for the period 2012-16. It calls for the Director- General to prepare a plan of action incorporating the priorities laid out in this framework for action for the consideration of the Governing Body at its 316th Session in November 2012.</p> <p>2011 AR: Following a tripartite debate at the Committee on the 1998 Declaration, the 99th Session (2010) of the International Labour Conference adopted a Resolution on the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work on 15 June 2010. The text appended to this Resolution supersedes the Annex to the ILO Declaration on Fundamental Principles and Rights at Work, and is entitled “Annex to the 1998 Declaration (Revised)”. In particular, the Resolution “[notes] the progress achieved by Members in respecting, promoting and realizing fundamental principles and rights at work and the need to support this progress by maintaining a follow-up procedure. For further information, see pages 3-5 of the following link: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_143164.pdf.</p> |