

# COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW

Australia - 2022

## THE EFFECTIVE ABOLITION OF CHILD LABOUR

### REPORTING

#### Fulfilment of Government's reporting obligations

138 Fulfilment of Government's reporting obligations

Yes

#### Involvement of Employers' and Workers organizations in the reporting process

91. When preparing its report, the Government consulted [10.1]

a) The most representative employers organizations, b) The most representative workers organizations, c) The competent authorities?

94. Please describe the consultation process(es). [10.2]

In accordance with the provisions of Article 23 of the ILO Constitution, copies of this report have been forwarded to the Australian Council of Trade Unions (ACTU) and Australian Chamber of Commerce and Industry (ACCI) prior to submission. The Australian Government regularly consults with the social partners through the International Labour Affairs Committee which meets tri-annually, as well as through ad hoc consultations.

### OBSERVATIONS BY THE SOCIAL PARTNERS

#### Employers' organizations

95. Did employers organizations comment on the report? [11a]

No

#### Workers' organizations

## EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT

### Ratification

### Ratification intention

21. What are the prospects for ratification of Convention No. 138?

Likely

### Recognition of the principle and right (prospect(s), means of action, basic legal provisions)

24. Have there been changes in law and practice in your country as regards minimum age for admission to employment?

Yes

#### 25.b. Legislative developments

ACT. Government made changes to ensure it is an informed purchaser when doing business with companies who have obligations to workers, including young workers. The Government Procurement (Charter of Procurement Values) Direction 2020 mandates that Territory entities consider the Charter of Procurement Values in the management of procurement activities. The 'Transparent and Ethical Engagement' Procurement Value requires Territory entities to be alert to modern slavery and leverage national initiatives to abate these practices. The Procurement Values Guide provides guidance to Territory entities regarding how they can address and minimise the risk of modern slavery (including child labour) in their procurements. The Government Procurement (Secure Local Jobs) Code 2020 (SLJC) applies to procurements within industries that are susceptible to unfair and unsafe working conditions (including construction, cleaning, security and traffic management). Suppliers must have a valid SLJC certificate before tendering. Suppliers must comply with relevant workplace relations legislation which contain provisions to protect children and young people at work, in order to retain their certification. The Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021 (ETWE) applies to SLJC procurements with a total estimated value of \$200,000 or more, which are conducted by public tender. Any supplier engaged in child labour practices would likely be identified through the ETWE process and would provide a basis for the delegate to decide not to proceed to a contract with that supplier. VIC Victoria amended the Child Employment Act 2003 (Vic) to ensure the child employment regulatory scheme remains targeted, effective and responsive to contemporary workplace issues and to strengthen protections for children in the workplace. The

	<p>amendments introduce a streamlined child employment licensing system to replace the current individual permit system. Under the new system, employers can apply for one licence which will enable them to employ multiple children under one licence (as opposed to applying for individual permits for each child engaged). This will streamline the administrative process and make ongoing licence conditions more targeted and risk-based. The amendments also introduce a 'fit and proper person' test for employers and new roles for employment representatives who will be responsible for ensuring compliance with the relevant legislation. Other changes include:</p> <ul style="list-style-type: none"> <li>• making clear that a child employment permit is not required for school children under formal work experience arrangements</li> <li>• requiring children who are auditioning for a role or participating in a casting process to be supervised by a person with a working with children (WWC) clearance to ensure they are safe in this setting</li> <li>• increasing the minimum age of a person supervising a child under 15 years in the workplace to 18 years NSW</li> </ul> <p>The Modern Slavery Act 2018 (NSW) (MSA) requires NSW Government agencies and local councils to take reasonable steps to ensure the goods and services they procure are not the product of modern slavery including child labour. State owned corporations must assess risks of modern slavery in their supply chains and comply with reporting obligations under the Commonwealth Modern Slavery Act 2018. The amendments introduce the role of an Anti-Slavery Commissioner whose functions include raising awareness of modern slavery, providing support for victims, monitoring the effectiveness of legislation and government policies against modern slavery. The amendments also insert new criminal offences into the Crimes Act 1900 (NSW) which specifically targets child labour. Under s 93AB(1)(b) of the Act, it is an offence punishable by up to 25 years imprisonment for a person to require a child to perform forced or compulsory labour where the person knows or ought to know that the child is being required to perform forced or compulsory labour.</p>
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**Policy, legislation and/or regulations**

<p><b>24. Have there been changes in law and practice in your country as regards minimum age for admission to employment?</b></p>	<p>Yes</p>
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<p><b>25.a. Policy initiatives</b></p>	<p>Queensland (QLD) In June 2022, the Queensland Police Service (QPS) adjusted the recruit applicant age limit to enable more young Queenslanders to start a career in policing. This change will allow 17-year-olds to apply to join the Service. However, the applicants must be at least 18 years to start recruit training at the Queensland Police Academy. The QPS is committed to employ people with diverse backgrounds and from different walks of life that reflect the Queensland community. Adjusting the age limit to 17 years means that young people will have alternatives to tertiary education or vocational institutions and can plan for their career in QPS. It also means school leavers will not need to wait up to seven months until their 18th birthday to</p>
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	<p>commence a recruit application. The change aligns QPS recruitment practices with those of the Australian Defence Force and some other police jurisdictions. The new age requirement to join the QPS aligns with the principles set out in article 3.1 of C138 which says, ‘the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.’ While the new QPS age limit requirement allows young people at least 17 years of age to apply to join the Service, they are not able to start recruit training until they are at least 18 years of age.</p>
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<p><b>24. Have there been changes in law and practice in your country as regards minimum age for admission to employment?</b></p>	<p>Yes</p>
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**Exercise of the principle and right**

**Compulsory education and minimum age**

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<p><b>25.b. Legislative developments</b></p>	<p>ACT The ACT Government made changes to ensure it is an informed purchaser when doing business with companies who have obligations to workers, including young workers. The Government Procurement (Charter of Procurement Values) Direction 2020 mandates that Territory entities consider the Charter of Procurement Values in the management of procurement activities. The ‘Transparent and Ethical Engagement’ Procurement Value requires Territory</p>
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entities to be alert to modern slavery and leverage national initiatives to abate these practices. The Procurement Values Guide provides guidance to Territory entities regarding how they can address and minimise the risk of modern slavery (including child labour) in their procurements. The Government Procurement (Secure Local Jobs) Code 2020 (SLJC) applies to procurements within industries that are susceptible to unfair and unsafe working conditions (including construction, cleaning, security and traffic management). Suppliers must have a valid SLJC certificate before tendering. Suppliers must comply with relevant workplace relations legislation which contain provisions to protect children and young people at work, in order to retain their certification. The Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021 (ETWE) applies to SLJC procurements with a total estimated value of \$200,000 or more, which are conducted by public tender. Any supplier engaged in child labour practices would likely be identified through the ETWE process and would provide a basis for the delegate to decide not to proceed to a contract with that supplier. VIC Victoria amended the Child Employment Act 2003 (Vic) to ensure the child employment regulatory scheme remains targeted, effective and responsive to contemporary workplace issues and to strengthen protections for children in the workplace. The amendments introduce a streamlined child employment licensing system to replace the current individual permit system. Under the new system, employers can apply for one licence which will enable them to employ multiple children under one licence (as opposed to applying for individual permits for each child engaged). This will streamline the administrative process and make ongoing licence conditions more targeted and risk-based. The amendments also introduce a 'fit and proper person' test for employers and new roles for employment representatives who will be responsible for ensuring compliance with the relevant legislation. Other changes include:

- making clear that a child employment permit is not required for school children under formal work experience arrangements
- requiring children who are auditioning for a role or participating in a casting process to be supervised by a person with a working with children (WWC) clearance to ensure they are safe in this setting
- increasing the minimum age of a person supervising a child under 15 years in the workplace to 18 years

NSW The Modern Slavery Act 2018 (NSW) (MSA) requires NSW Government agencies and local councils to take reasonable steps to ensure the goods and services they procure are not the product of modern slavery including child labour. State owned corporations must assess risks of modern slavery in their supply chains and comply with reporting obligations under the Commonwealth Modern Slavery Act 2018. The amendments introduce the role of an Anti-Slavery Commissioner whose functions include raising awareness of modern slavery, providing support for victims, monitoring the effectiveness of legislation and government policies against modern slavery. The amendments also insert new criminal offences into the Crimes Act 1900 (NSW) which specifically targets child labour. Under s 93AB(1)(b) of the Act, it is an offence punishable by up to 25 years imprisonment for a person to require a child to perform forced or compulsory labour where the person knows or ought to know that the

	child is being required to perform forced or compulsory labour.
<b>Special attention to particular situations</b>	
<b>29. Has particular attention been paid to specific groups of population, workers or sectors of activity in the efforts to promote effective abolition of child labour?</b>	Yes
<b>29.1. Please specify</b>	<p>Commonwealth At the Federal level, the Fair Work Ombudsman (FWO) plays a key role in ensuring compliance with the Fair Work Act 2009 (Cth), which does not include regulations relating to child labour. Monitoring 'child labour' and the circumstances in which children can legally be engaged in employment is specifically regulated at the state and territory level in Australia. With respect to workplace matters that are within the FWO's jurisdiction, vulnerable workers (including young workers) are an enduring priority area for the FWO. The FWO has a range of information and services for young workers regarding workplace rights and responsibilities. The FWO has also developed a range of education tools and resources to assist young workers to understand their workplace rights and entitlements. This includes:</p> <ul style="list-style-type: none"> <li>• a dedicated section on the FWO website with information particularly targeted at young workers about their rights at work, including pathways to state and territory organisations responsible for regulating child specific labour laws;</li> <li>• active social media accounts posting information and sharing resources for young workers;</li> <li>• online courses, information and guides targeted at young people starting a new job;</li> <li>• young worker videos developed in partnership with the Foundation for Young Australians; and</li> <li>• a smartphone app that makes it quick and easy for workers (including young workers) to record and store the hours they work, plus other information about their employment.</li> </ul> <p>ACT Refer to information provided under question 25(b). The ACT Labour Hire Licensing Act 2020 has clear objectives to protect workers from exploitation by providers of labour hire services and ensure labour hire service providers meet their workplace obligations and responsibilities to the workers they supply, including young workers. This Act promotes integrity and responsible practices in the labour hire services industry. These objectives are achieved by establishing a licensing scheme to regulate the provision of labour hire services and establishing a register of labour hire licensees. The ACT Government also engages with Australian School-based Apprentices and their employers early in their training contract to ensure they are aware of their obligations regarding, work-based training, minimum and maximum combined work and training hours, worker entitlements, and work health and safety. Victoria As part of its work to monitor compliance with the Child Employment Act (CE Act), the WI initiates campaigns targeting and engaging with certain businesses. These campaigns focus on high-risk sectors and occupations and involve audits of businesses where children are likely to be employed. In the second half 2022, the WI audited regional hospitality businesses employing children under 15. WorkSafe Victoria (WorkSafe)</p>

	<p>facilitated reciprocal webinars with the Wage Inspectorate to uplift the inspectors of both bodies understanding of child labour under the CE Act and the Occupational Health and Safety Act 2004. WorkSafe has also partnered with stakeholders in the agriculture industry to provide information and guidance to farming families about safety for children on farms and is committed to continuous research and improvement on this issue. In April of 2022 WorkSafe ran the “It’s never you, until it is” campaign, which included to draw attention to the significant risks associated with agricultural work and to encourage farming families to have conversations about safety.</p>
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## Information/ Data collection and dissemination

<p><b>26. Have efforts been made to promote the effective abolition of child labour in your country?</b></p>	<p>Yes</p>
<p><b>27. If yes, please specify:</b></p>	<p>a) Research,b) Information/data compilation,c) Training,d) Awareness-raising,e) Other related activities</p>

## Monitoring, enforcement and sanctions mechanisms

<p><b>24. Have there been changes in law and practice in your country as regards minimum age for admission to employment?</b></p>	<p>Yes</p>
<p><b>25.c. Labour inspection /monitoring</b></p>	<p>VIC Amendments to the Child Employment Act expands the enforcement tools available to the Wage Inspectorate (WI) and increases penalties for non-compliance. The amendments empower the WI to issue infringement notices and a change to the risk-based licensing system will improve its ability to target compliance activities to the most high-risk activities. The WI can impose conditions to a child employment permit to ensure any work performed by a child is done safely and monitors compliance by the permit holder through a range of compliance and enforcement activities. The WI ensures compliance with the new Child Safe Standards (CSS) which applies to employers engaging children under a children employment permit from 1 January 2023. The CSS require entities to embed child safety precautions in their operations, to ensure children are protected from physical, sexual, emotional and psychological abuse and neglect. For further information: <a href="https://www.vic.gov.au/child-safe-standards-employing-children">https://www.vic.gov.au/child-safe-standards-employing-children</a> There were 171 child employment investigations in 2021/22, two of which were prosecuted by the WI and resulted in the Magistrates’ Court imposing penalties. It secured \$21,000 in fines and costs against a travelling circus that pleaded guilty to breaching child employment laws and \$5000 in fines and costs against a fashion company that also pleaded guilty. In the first half of 2022, the Wage Inspectorate has commenced prosecuting a company that makes digital learning programs for young children for 48</p>

	<p>alleged breaches of Victoria’s child employment laws when it engaged 23 minors under 15 without obtaining mandatory permits. In June 2022 a café in regional Victoria was fined \$5,000 in the Melbourne Magistrates’ Court after pleading guilty to nine breaches of the Act. WA The Department of Mines, Industry Regulation and Safety undertook three inspections concerning the employment of children between 1 July 2021 and 30 June 2022. Of these, one inspection concluded that there were no breaches of the Children and Community Services Act 2003 (WA). In two cases, breaches of the act were found and rectified without formal action being required. NSW From 1 July 2021 to 30 June 2022, the Office of the Children’s Guardian has:</p> <ul style="list-style-type: none"> <li>• Undertaken 119 compliance checks (mix of desk based and on-site visits due to pandemic restrictions)</li> <li>• Investigated 32 allegations of non-compliance (not part of the compliance operations figures)</li> <li>• Issued two penalty infringement notices</li> <li>• Issued 13 warning letters</li> <li>• Finalised 17 matters as ‘No further action’</li> </ul>
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## Involvement of the social partners

<p><b>27.1. Please specify and indicate the involvement of social partners</b></p>	<p>The Australian Government regularly consults with the social partners (the Australian Council of Trade Unions and the Australian Chamber of Commerce and Industry) through the International Labour Affairs Committee which meets tri-annually, as well as through ad hoc consultations. The social partners have been consulted on the proposed ratification of C138.</p>
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## Promotional activities

<p><b>26. Have efforts been made to promote the effective abolition of child labour in your country?</b></p>	<p>Yes</p>
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<p><b>27. If yes, please specify:</b></p>	<p>a) Research,b) Information/data compilation,c) Training,d) Awareness-raising,e) Other related activities</p>
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<p><b>27.e. Please specify other</b></p>	<p>Research ACT In 2021, WorkSafe ACT launched its Young Workers Strategy 2021-2023 which provides an overview of the organisation’s approach to ensuring compliance with the management of work-related issues affecting young workers in the ACT. WorkSafe ACT has particularly focused on identified priority workgroups and industries to support legislative compliance with work health and safety laws. In the creation of the strategy, WorkSafe ACT engaged with young workers and conducted research to understand the key issues facing young workers. The key actions that came out of this work will help to ensure employer obligations are met in the employment of children and young people, including the restrictions around this employment regarding minimum age. Actions under the Young Workers Strategy 2021-2023 include the assignment of a young workers inspector at WorkSafe ACT and proactive, targeted compliance and enforcement campaigns. WorkSafe ACT is</p>
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committed to ensuring workplaces in the ACT are safe for all workers, including young workers. Young workers are workers aged up to 25 years including apprentices, school-based apprentices, and trainees. This also encompasses all forms of employment including, but not limited to, casual, freelance or gig, labour hire, temporary, unpaid internships, work experience and work placements, full-time and part-time work. The ACT Government has released The ACT Children and Young People’s Commitment 2015-2025 which sets an ongoing vision for a whole-of government and whole-of community approach to promote the rights of children and young people. The Commitment has been developed through research and consultation with children, young people, community agencies and the ACT Government. The Strategy highlights that laws and actions affecting children and young people should put their best interests first and benefit them in the best possible way. Information/data compilation ACT The ACT Government provides funding support for the Young Workers Advice Service (YWAS), contracted to UnionsACT, which provides free, confidential support and information to workers in the ACT under the age of 25 to ensure young people have the knowledge and confidence to protect their rights at work. The Young Workers Advice Service also provides information and advice to parents, guardians and teachers of young workers to ensure they have the knowledge to assist young workers. Training ACT Finally, training and eLearning modules have been conducted and released on the procurement-related policies such as the Procurement Values Direction, SLJC and ETWE to raise greater awareness across the Territory about these measures. Awareness-raising Western Australia DMIRS undertakes awareness raising regarding child employment provisions and employer obligations under the CCS Act through community education initiatives including email newsletters, website materials, and social media. Other related activities Victoria Apart from the legislative changes and other initiatives described above under question 2, in the first half of 2022, Wage Inspectorate Victoria (Wage Inspectorate) has launched a regional hospitality campaign to boost compliance with child employment laws and check that hospitality businesses employing kids under 15 years are complying with their obligations. The changes to the Child Employment Act (CE Act) were informed by a review that encompassed extensive research and consultation commissioned by the Victorian Government between 2019 and 2021. The research and consultation revealed that in Victoria, six per cent of children under 15 years of age have a job, one in 10 children are or have been employed while under the age of 15, and 3.5 per cent of Victorian businesses have employed children under 15. Further information can be located at: <https://www.premier.vic.gov.au/reviewing-child-employment-victoria-have-your-say>

**Special initiatives-Progress**

**28. Have any initiatives resulted in successful examples or good practice in promoting the effective abolition of child labour?**

Yes

**28.1. Please specify**

ACT The ACT Government provides funding support for the Young Workers Advice Service (YWAS), contracted to UnionsACT, which provides free, confidential support and information to workers in the ACT under the age of 25 to ensure young people have the knowledge and confidence to protect their rights at work. The Young Workers Advice Service also provides information and advice to parents, guardians and teachers to ensure they have the knowledge to assist young workers. Enquiries are received by YWAS through a range of channels including both online and in person during education and outreach activities. YWAS provides access to published information about young people's rights at work and has developed relationships with other youth-focused organisations in the ACT to promote education and to provide referrals to YWAS. Victoria In 2022, WorkSafe Victoria (WorkSafe) developed and tested a suite of occupational health and safety training designed to introduce workplace safety to high school students. A pilot program was delivered to select high schools and open to Year 9 – 12 students and featured three eLearning modules, a teacher facilitated session and classroom activities. The focus of the material is to introduce:

- the role of WorkSafe as the workplace safety regulator for all workers
- a worker's rights and responsibilities
- what are workplace hazards
- the importance of speaking up.

The pilot was positively received by both students and teachers and the learning material will be made available to all Victorian High schools from 2023. WorkSafe provides information to the agriculture industry about risks that children face on farms and possible risk mitigation measures (<https://www.worksafe.vic.gov.au/children-farms>). WorkSafe also provides information about the health and safety duties owed to children working on a family farm (<https://www.worksafe.vic.gov.au/children-working-family-farms>). South Australia The Strong Futures South Australian Youth Action Plan 2020-2022 is still ongoing and due for conclusion this year.

**CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT**

**According to the Government and social partners**

**30. What are the current challenges and difficulties faced in the effective abolition of child labour?**

No change

**TECHNICAL COOPERATION**

**Request**

**31. What are the technical cooperation needs in your country to promote the effective abolition of child labour?**

No change