

**WORKPLACE AND
EMPLOYMENT LAW
ALERT**

JULY 2006

**FOR FURTHER INFORMATION
PLEASE CONTACT**

Christopher Campbell
☎ 07 3223 6403
✉ ccampbell@qmtlaw.com.au

Joanna Sorrentini
☎ 07 3223 6450
✉ jsorrentini@qmtlaw.com.au

Authorised by:
Christopher Campbell
Managing Partner
QUINLAN MILLER & TRESTON
GPO Box 2500
Brisbane QLD 4001
Telephone: 3223 6403
E-mail: ccampbell@qmtlaw.com.au

WORKPLACE RELATIONS: CHILD EMPLOYMENT ACT

Child Employment Act 2006 (Qld)
Child Employment Regulations 2006 (Qld)

Guide to employing Children

The *Child Employment Act 2006 (Qld)* and the *Child Employment Regulations 2006 (Qld)* commenced operation on 1 July 2006. The Act and Regulations set out a number of procedures and rules in relation to the employment of people under the age of 18.

1. Introduction

The purpose of the Act is to:

- ensure work does not interfere with children's schooling; and
- prevent children performing work that may be harmful to their health or safety or physical, mental, moral or social development.

2. School-aged and Young Children

The Act defines a school-aged child as someone who is under 16 and required to be enrolled in school. A young child is aged between 11 and 13 years.

3. What 'work' does the Act apply to?

The Act applies to work a child may perform under a contract as an employee or as an independent contractor. Importantly, this also includes unpaid and voluntary work.

4. What 'work' does the Act not apply to?

The Act does not apply to the following types of work:

- domestic chores,
- collections for charity,
- traineeships and apprenticeships,
- vocational placements or work experience.

5. Authority to work

School-aged and young children need their parent or guardian to complete the Parent's Consent Form to allow them to be employed. This form can be downloaded in pdf format from: <http://www.dir.qld.gov.au/industrial/family/youth/index.htm>.

The form must include information about when the child is required to be at school. Once a parent or guardian is made aware of a change to the hours the child's school hours, they need to complete another form and give it to the child's employer within 14 days.

**WORKPLACE AND
EMPLOYMENT LAW
ALERT**

JULY 2006

**FOR FURTHER INFORMATION
PLEASE CONTACT**

Christopher Campbell
☎ 07 3223 6403
✉ ccampbell@qmtlaw.com.au

Joanna Sorrentini
☎ 07 3223 6450
✉ jsorrentini@qmtlaw.com.au

Authorised by:
Christopher Campbell
Managing Partner
QUINLAN MILLER & TRESTON
GPO Box 2500
Brisbane QLD 4001
Telephone: 3223 6403
E-mail: ccampbell@qmtlaw.com.au

The form does not need to be signed if the child commenced work before 1 July 2006 or the child is employed by their parent or guardian.

6. What work can children do?

Children who are at least 11 years of age may do delivery work, ie. delivering newspapers or advertising material. Children of all ages can do voluntary work, work for family businesses (that are wholly owned by a close adult relative of the child) and work as performers in the entertainment industry.

For all other work, the child must be at least 13 years old.

7. How many hours can a child work?

Generally

Even on weekends or school holidays, no child may work between 10pm and 6am unless the work is as a performer in the entertainment industry or for a family business. Children also cannot work during hours they are required to be at school.

School-aged children:

During school weeks, a school-aged child cannot work more than 12 hours per week and more than 4 hours on a school day. For any other day, the maximum the child can work is 8 hours. During school holidays a child can work 38 hours per week.

More than 12 hours needs to have elapsed since the child's last shift before working again.

Unless an award or workplace agreement says otherwise, after 4 hours work, a child must be given a one-hour rest break before being required to work again. A child cannot do more than 1 shift per day.

Young children:

A young child cannot work more than 12 hours in any week or more than 4 hours in a day. Shifts must allow at least 12 hours to pass between them. If a young child has already worked 1 shift, they cannot work another, unless an award or workplace agreement specified differently.

A young child may not perform delivery work between 6pm and 6am.

8. How must children be supervised?

Work involving the exchange of money or delivery work requires the employer to have an adult in the near vicinity of, and in regular contact with, the child. The child must also be otherwise appropriately supervised by an adult.

**WORKPLACE AND
EMPLOYMENT LAW
ALERT**

JULY 2006

**FOR FURTHER INFORMATION
PLEASE CONTACT**

Christopher Campbell

☎ 07 3223 6403

✉ ccampbell@qmtlaw.com.au

Joanna Sorrentini

☎ 07 3223 6450

✉ jsorrentini@qmtlaw.com.au

Authorised by:

Christopher Campbell

Managing Partner

QUINLAN MILLER & TRESTON

GPO Box 2500

Brisbane QLD 4001

Telephone: 3223 6403

E-mail: ccampbell@qmtlaw.com.au

An employer has a duty to safeguard children at work and ensure they are not subject to deliberate or unnecessary social isolation or to any other behaviour likely to intimidate, threaten, frighten or humiliate them.

9. When can parents or guardians be contacted?

An employer needs to take reasonable steps to make sure that a child is able to contact their parent(s) or guardian(s) while the child is at work; or if that is impractical, a person nominated by the child's parent or guardian. The child is allowed to contact these people while at work in reasonable circumstances.

If a child becomes sick or injured at work, so that they can no longer finish their shift, the employer must take reasonable steps to immediately contact the child's parent or guardian or guardian or nominated person.

10. What training should be provided?

An employer needs to give children induction training and workplace health and safety training that is appropriate for their age.

11. What records must be kept?

The employer needs to keep a copy of the Child's Employment Guide at their workplace in a place where it is easily seen by employees. This guide is published by the Department of Industrial Relations and available to print off the internet at: <<http://www.dir.qld.gov.au/industrial/family/youth/index.htm>>.

The records that need to be kept by an employer for all children are:

- the employer's full name;
- the address where the child works;
- the child's full name, address, home phone number and date of birth;
- the child's parent or guardian or guardian's name, address and home or business phone number;
- the nominated person's name, address and home or business phone number;
- the nature of the work the child is required to perform for the employer;
- a copy of any special circumstances certificate (see 12 below) relevant to the child's employment;
- a copy of any work limitation notice (see 13 below) relevant to the child's employment;

In addition, for a school-aged or young child the employer must keep details of:

- the number of hours the child has worked for each day and week;

- the child's start and finish times;
- details of work breaks including meal breaks; and
- the Parent or guardian or guardian's Consent Form for the child;

If the child employed is not a school-aged or young child, e.g. is 17, the employer also needs to keep a copy of a form of identification, which has the child's date of birth. Acceptable identification is a birth certificate or school ID card.

These records must be kept at the employer's premises for a period of 2 years.

12. Special Circumstances Certificate

A child or an adult on the child's behalf can apply for a Special Circumstances Certificate (SCC), which is issued by the Chief Executive.

The SCC can allow a child to:

- do work that is not usually allowed;
- work in a way that is not usually allowed;
- work when the child is not normally allowed to work (e.g. after 10pm); and
- work without supervision by an adult.

If a school-aged child does not have parent or guardian or lives independently, the SCC can allow the child to work without a signed consent form.

A SCC will only be granted by the Chief Executive if satisfied that its conditions will not interfere with the child's schooling and the child's health, safety or physical, mental, moral or social development will not be harmed.

13. Work Limitation Notice

The Chief Executive may alternatively limit or prohibit the work a child or children can perform through a Work Limitation Notice (WLN). The Chief Executive may issue the notice if satisfied that work currently being done by a child or children may be interfering with the child's schooling and may be harmful to the child's health, safety or physical, mental, moral or social development.

An employer facing a WLN must be given written notice of this and is invited to make a written submission about why the WLN should not be issued. Any submission must be provided to the Chief Executive within 7 days after receiving notice of the proposal. An extension of time can however be sought from the Chief Executive.

WORKPLACE AND EMPLOYMENT LAW ALERT

JULY 2006

FOR FURTHER INFORMATION PLEASE CONTACT

Christopher Campbell

☎ 07 3223 6403

✉ ccampbell@qmtlaw.com.au

Joanna Sorrentini

☎ 07 3223 6450

✉ jsorrentini@qmtlaw.com.au

Authorised by:

Christopher Campbell

Managing Partner

QUINLAN MILLER & TRESTON

GPO Box 2500

Brisbane QLD 4001

Telephone: 3223 6403

E-mail: ccampbell@qmtlaw.com.au

**WORKPLACE AND
EMPLOYMENT LAW
ALERT**

JULY 2006

**FOR FURTHER INFORMATION
PLEASE CONTACT**

Christopher Campbell

☎ 07 3223 6403

✉ ccampbell@qmtlaw.com.au

Joanna Sorrentini

☎ 07 3223 6450

✉ jsorrentini@qmtlaw.com.au

Authorised by:

Christopher Campbell

Managing Partner

QUINLAN MILLER & TRESTON

GPO Box 2500

Brisbane QLD 4001

Telephone: 3223 6403

E-mail: ccampbell@qmtlaw.com.au

14. How do you appeal a decision?

A person unhappy with the decision of the Chief Executive to make or refuse to make a SCC or WLN may appeal the decision to the Queensland Industrial Court. In most cases the appeal must be started within 21 days of the person receiving notice of the Chief Executive's decision.

15. How is the Act enforced?

The Act and Regulations establish Workplace Inspectors whose functions are to:

- Monitor compliance with the Act,
- Investigate alleged contraventions of the Act; and
- Inform children, parent or guardian or guardians and employers of their rights and obligations under the Act.

The Workplace Inspectors have power to enter an employer's premises and seize evidence in the performance of their functions.

16. Are there penalties for not complying with the Act?

Yes. If an employer contravenes or requires or permits a child to contravene the Act or Regulations, in most instances the employer commits an offence which is tried before an Industrial Magistrate.