

Strengthening safeguards

Employment protection for children and young people in Queensland

By Elizabeth Fraser



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From 1 July the new *Child Employment Act 2006 (Qld)* will provide specific protection for children and young people in Queensland workplaces for the first time.

The Act will provide safeguards to ensure work will not interfere with young workers' schooling, and prevent them from performing work which may harm their health, safety or physical, mental, moral or social development.

The Act is the culmination of a reform process which the Commission for Children and Young People and the Child Guardian began, with government support, in December 2002 when we commenced our *Queensland Review of Child Labour*.

Background

Before the Commission's review of child labour, Queensland had a range of minimum conditions and health and safety protections which applied to all workers, regardless of age. However, there were few specific conditions governing child labour.

The Commission, the Young Workers Advisory Service (the YWAS)¹ and Legal Aid Queensland had raised concerns about school children working excessive hours with adverse consequences for their education. There were no laws in Queensland governing minimum age requirements or hours. The Australian Council of Trade Unions also expressed concern that Queensland was not complying with International Labour Organisation Conventions 138 and 182.²

To identify the main issues, the Commission held consultations with key non-government stakeholders including Commerce Queensland, the Queensland Farmers Federation, the Queensland Council of Unions and the YWAS. The Commission also established an Interdepartmental Reference Group of government stakeholders. Children and young people were engaged through various workshops, focus groups and surveys. The Commission also conducted an extensive literature review and collated existing data. All of this research and policy analysis was discussed in the *Queensland Review of Child Labour Discussion Paper*, released in August 2004. The discussion paper identified four key issues, being:

1. school age children working excessive hours;
2. children and young people potentially working in adult entertainment as topless waitresses;
3. concerns about children's workplace conditions, health and safety, bullying and exploitation; and
4. no child specific protections in the growing film, television and entertainment industries.

The discussion paper generated significant responses from government and non-government stakeholders. These responses, together with various consultation forums, informed the Commission's development of a range of recommendations to the Queensland government. The research and consultation findings were included in the Report *Queensland Review of Child Labour: Summary of Findings*, which was released by the Queensland Premier on 1 May 2005.

The report highlighted significant and recent changes to the extent and nature of child employment. These changes were identified as having a negative impact on children's education and leisure time. Concerns were raised about the ability of young workers to address these issues in the absence of specific child labour safeguards.

The extent and nature of child employment

The *Review of Child Labour* found that 45.6% of young people aged 15–19 in Australia were in paid employment compared to a mean of 26.2% for OECD countries. The Australian Bureau of Statistics data showed that in March 2004, 150,300 young people aged 15–19 in Queensland were working—57% of the population.

An increasing number of secondary school students were balancing work, study and leisure time. In 1987, 34% were employed part time. By 2004, this had risen to 48% (47,300).

The Shop, Distributive and Allied Employees Association (the SDA) reported that 31% of the 600 young workers who responded to their survey were under 15 when they started work. Submissions reported children as young as 11 were working, while children as young as six were reported working in rural Australia.

International research showed that there had been a growth in child employment in the retail and service sectors with a move away from more traditional work, such as baby sitting and paper rounds. Deregulated work hours in the retail and fast food sector allowed more work to occur after school hours. In 2001, 46% of young workers, aged 15–19, in Queensland worked in the retail sector, where they made up 22% of the total workforce. Eleven per cent worked in the accommodation, café and restaurant industry, making up 15% of the workforce.

Data showed that most young people under 18 worked 18 hours or less per week. However, a small but significant percentage (about 4%) worked more than 40 hours per week, and about half that number worked more than 49 hours per week.

The vast majority of young workers were employed on a casual part-time basis. The rate of casual employment has increased markedly over the last 10 years as more young workers found work in the retail and service sectors. The

SDA reported that 88.4% of respondents to their survey were casuals.

The most common reason for working, given by the 14–17 year old school students surveyed by the Commission, was to save money (25%), while 16.5% were working to support themselves, and 10.2% were working to support the family business or income.

Negative effects on education and leisure time

Feedback identified a range of child labour issues, including injury, sexual exploitation and negative impacts on education.

Many submissions recognised the issues of balancing study, work, leisure and family responsibilities. Submissions recognised that children's participation in the workforce must be balanced with educational and social opportunities.

The negative effects of work on education included extremely high levels of fatigue, negative effects on alertness and ability to concentrate, inability to complete homework, lack of preparation for exams and poor results. A 2001 review by the Australian Council of Education Research concluded that working long hours from a young age negatively impacted upon children's school completion rates.³ A survey found that Year 11 students who worked more than ten hours per week were slightly less likely to finish Year 12 and achieved lower results than non-workers.⁴ The review found that working more than five hours per week in Year 9 negatively impacts upon school retention and performance, with a direct correlation between the level of risk and the number of hours worked.

One of the three most important issues identified by the SDA survey was 60.6% of respondents having difficulties combining work and study. Of the 584 14–17 year old students surveyed by the Commission, 75.4% worked and 57.6% found combining work and study stressful. Similarly, Queensland research found that casual work that interfered with study leads to early school leaving and impacts negatively on the chances of young people obtaining permanent full time work later in life. This finding contrasted starkly with the outcome of casual work that supported study.⁵

Some organisations stated that young students were working excessive hours and late shifts.

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In some cases, they were also bearing a disproportionate amount of responsibility.

Some of the case studies cited included:

- two female Year 11 students on the Gold Coast who lived away from home with their boyfriends. Both girls worked 30 hours a week at a supermarket to contribute to rent and living expenses;
- a female Year 11 student who was told that because her brother was sick she would have to do his shift too. She worked 12 hours a day at the weekend;
- a 15 year old girl who worked in a bakery from 4:30 am before school; and
- Year 11 and 12 students who had to close up a local fast food restaurant at 1 am.

Submissions also noted that some students had been asked to take work clothes and mobile telephones to school so they could be on call for shifts after school, while others had been called into work while at school. As casual employees, young workers feared that refusing shifts would limit their offers of further work.

Young workers' lack of knowledge

A commonly-reported concern was the lack of knowledge children and young people had about their rights at work. As a result, they were not empowered to raise their concerns and were likely to comply with unreasonable requests or unlawful directions from their employer.

Over 53% of school students who responded to the Commission's survey said they did not know their rights as an employee. Only 11.7% stated they were members of a union and 35% did not know if they belonged to a union.

These results were consistent with a 2001 survey of 1,409 young casual employees across Australia.⁶ Data from that survey showed that 30% of respondents did not know the number of breaks they were entitled to and 33% were working unpaid overtime.

New protections

The Commission's research and consultation supported a child employment protection model based on four elements. These elements were child employment legislation, child specific employment service delivery, a coordinating

child employment policy function and a child employment guide.

In response to the Review, the Queensland government agreed to legislate to protect young workers. In addition to the legislation, the Department of Industrial Relations has developed a *Children and Young Workers Code of Practice* under the *Workplace Health & Safety Act 1995* (Qld) and is developing an entertainment code of practice.

The new Act and accompanying regulations will provide safeguards for all workers under 18. Young people under 16 who have not completed their compulsory schooling will have the highest level of protection. The Act and regulations provide:

- a general minimum working age of 13;
- that school age children cannot work during hours when they are required to be at school;
- that school age children cannot work longer than four hours on a school day and eight hours on a non-school day;
- that school age children can work a maximum of 12 hours during a school week and 38 hours in a non-school week;
- that school age children are prohibited from working between 10 pm and 6 am;
- that school age children can work one shift a day only; and
- that school age children cannot start work again within 12 hours of finishing work with the same employer.

Conclusions

Findings from the *Child Labour Review* indicate that child employment in Queensland has changed considerably in recent years, with more students working at younger ages and for longer hours. A high percentage of young people are employed in industries such as retail and fast food as a result of deregulated trading hours and the majority of these are employed casually.

Despite the many benefits of work, the Commission's research and consultation shows there are also issues of concern, including exploitation, impact on education and difficulties for children asserting their rights at work. Light, safe, part-time work for children has been identified as clearly acceptable to the community. However, there is also a

recognition of children's particular vulnerabilities and the importance of education and leisure opportunities.

The review demonstrated the need for child-focused employment protection that supports children's right to safe and appropriate work and ensures they are protected. This includes their right to education, social and leisure time. The *Child Employment Act 2006* (Qld) aims to protect young workers and help them achieve an appropriate education, life, work balance.

The Commission will, in partnership with the government and other stakeholders, continue monitoring child labour issues and the safeguards provided by the new Act. The Commission will also continue advocating on behalf of young people in the labour market and will help develop further responses to the issues raised in the Review, including the two codes of practice.

Endnotes

1. The YWAS is a government funded community organisation that provides information, advocacy, referrals and advice to young workers aged under 25 in Queensland about employment and industrial relations concerns.
2. Convention 138 requires regulating for a minimum age for the employment of children and to ensure that work for children under 18 does not jeopardise their health, safety and well being. Convention 182 prohibits the worst forms of child labour such as slavery, the sale and trafficking of children, forced labour, prostitution, pornography and illicit activities.
3. M Vickers, S Lamb and J Hinkley, *Student Workers in High School and Beyond: The Effects of Part-Time Employment on Participation in Education, Training and Work*, LSAY Research Report No 30 (2003).
4. L Robinson, *The Effects of Part-Time Work on School Students*, LSAY Research Report No 9 (1999).
5. C Green, A Loon and J Mangan, *Youth Labour Markets, Education and Employment Destinations: Results from the Queensland Survey of Youth*, Department of Employment and Training, Working Paper No 1 (2000).
6. Australian Young Christian Workers, *Don't Bother Coming in Today: Casual Work, Casual Nature* (2001).

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