



Queensland

# Child Employment Amendment Regulation (No. 1) 2006

## Subordinate Legislation 2006 No. 313

made under the

*Child Employment Act 2006*

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## **1 Short title**

This regulation may be cited as the *Child Employment Amendment Regulation (No. 1) 2006*.

## **2 Commencement**

This regulation commences on 1 January 2007.

## **3 Regulation amended**

This regulation amends the *Child Employment Regulation 2006*.

## **4 Insertion of new pt 1, hdg**

Before section 1—

*insert—*

## **‘Part 1 Preliminary’.**

## **5 Insertion of new pt 2, hdg and s 3A**

After section 3—

*insert—*

## **‘Part 2 General provisions for all work**

### **‘3A Prohibition on nudity and sexually provocative clothing**

‘(1) For section 9(2)<sup>1</sup> of the Act, this section states the way a child may not work.

‘(2) A child may not work in either of the following ways—

(a) while the child is nude;

(b) while the child is clothed or covered in another way so—

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<sup>1</sup> Section 9 (Restrictions on work performed by children) of the Act

- (i) the child's sexual organs or anus are visible; or
  - (ii) if the child is a female who is at least 5 years—her breasts are visible.
- '(3) Subsection (2) does not apply to work in the entertainment industry if—
- (a) the child is under 12 months; and
  - (b) a parent of the child, who is not the employer of the child, has given the employer written consent to whichever of the following is relevant—
    - (i) the child working while the child is nude;
    - (ii) the child working while the child is clothed or covered in another way so the child's sexual organs or anus are visible; and
  - (c) a parent of the child is present while the child is working in either of the ways mentioned in subsection (2).
- '(4) However, a consent under subsection (3)(b)(ii) need not cover all matters mentioned in the subsection so long as all matters in the subsection relevant to the work the child is to do are covered.'

## **6 Amendment of s 5 (Prohibited working hours for school-aged or young children)**

- (1) Section 5(2)(a), before 'in'—  
*insert—*  
'that is work'.
- (2) Section 5—  
*insert—*
- '(8A) For this section, for calculating the hours a child has already worked during a period if the child worked for more than 1 employer during the period, the hours the child worked for all employers, in total, must be counted.'

**7 Amendment of s 7 (Employer's duty about ability to contact a parent)**

Section 7—

*insert—*

- ‘(4) Subsection (3) does not apply to a prescribed child who is a young child.

*Note—*

For an employer's obligation to notify a parent or nominated person if a prescribed child who is a young child becomes ill or is injured while at work, see section 24(2).’

**8 Amendment of s 9 (Records for children who are working)**

Section 9(2), ‘2 years’—

*omit, insert—*

‘at least 2 years after the child stops working for the employer.’

**9 Insertion of new s 10 and pt 3**

After section 9—

*insert—*

**‘10 Special circumstances certificates**

‘An application for a special circumstances certificate under section 12<sup>2</sup> of the Act must be made sufficiently in advance of when the certificate is needed to allow the chief executive to properly consider the application.

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<sup>2</sup> Section 12 (Chief executive may authorise a child to do particular work) of the Act

## **‘Part 3                      Specific provisions for work in the entertainment industry**

### **‘Division 1                Application of part 3**

#### **‘11      Application of pt 3**

‘This part applies to an employer of a school-aged or young child who does work in the entertainment industry in addition to the provisions of part 2 that apply to an employer of a child who does work in the entertainment industry.

### **‘Division 2                Restrictions on work performed by school-aged or young children**

#### **‘12      Prohibition on inappropriate roles and situations**

- ‘(1) For section 9(2)<sup>3</sup> of the Act, this section states, for work in the entertainment industry, the way a school-aged or young child may not work.
- ‘(2) The child may not perform a role, or be put in a situation, that is inappropriate for the child, having regard to the child’s age, emotional and psychological development, maturity and sensitivity.
- ‘(3) Without limiting subsection (2), the child may not—
  - (a) be exposed to scenes or situations that are likely to distress or embarrass the child; or
  - (b) be made distressed to obtain a more realistic depiction of a particular emotional reaction; or
  - (c) be present while another person is—
    - (i) nude; or
    - (ii) clothed or covered in another way so—

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3      Section 9 (Restrictions on work performed by children) of the Act

- (A) the person's sexual organs or anus are visible; or
  - (B) if the person is a female who is at least 5 years—her breasts are visible.<sup>4</sup>
- '(4) Subsection (3)(c) does not apply if—
- (a) the child is under 12 months; and
  - (b) a parent of the child, who is not the employer of the child, has given the employer written consent to whichever of the following is relevant—
    - (i) the child being present while the other person is nude;
    - (ii) the child being present while the other person is clothed or covered in another way so the person's sexual organs or anus are visible;
    - (iii) the child being present while the other person is clothed or covered in another way so the person's breasts are visible; and
  - (c) a parent of the child is present while the child is present and the other person is as mentioned in subsection (3)(c)(i) or (ii).
- '(5) However, a consent under subsection (4)(b)(ii) or (iii) need not cover all matters mentioned in the subsection so long as all matters in the subsection relevant to the work the child is to do are covered.

### '13 **Restrictions on work performed by children under 12 weeks**

- '(1) For section 9(2) of the Act, this section states, for work in the entertainment industry, the way a baby may not work.
- '(2) The baby may not work for 1 hour or less on a single day unless—

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4 See also section 3A (Prohibition on nudity and sexually provocative clothing).

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- (a) a parent of the baby is present while the baby is at work; and
  - (b) the employer is satisfied on advice from a parent that—
    - (i) the baby was delivered full term and in good health; and
    - (ii) the baby's birth weight was at least 3 kilograms; and
    - (iii) the baby has not had a post-natal problem; and
    - (iv) the baby is feeding successfully; and
    - (v) the baby's weight gain from birth has been satisfactory.
- '(3) The baby may not work for more than 1 hour on a single day unless—
- (a) a parent of the baby is present while the baby is at work; and
  - (b) a midwife or registered nurse is present while the baby is at work; and
  - (c) the midwife or registered nurse advises the employer that the baby is suitable for employment; and
  - (d) the midwife or registered nurse advises the employer that the work environment is unlikely to distress the baby; and
  - (e) the employer follows the advice of the midwife or registered nurse about the welfare of the baby.
- '(4) The baby may not—
- (a) be exposed to harmful lighting; or
  - (b) have cosmetics applied to him or her unless the cosmetics are non-irritating and uncontaminated; or
  - (c) be touched by a person whom the employer knows, or reasonably ought to know, has a contagious medical condition that may be transmitted by touch; or
  - (d) be so close to a person whom the employer knows, or reasonably ought to know, has a contagious medical



condition that the condition may be transmitted to the child.

‘(5) In this section—

*baby* means a child under 12 weeks.

#### ‘14 **Prohibited working hours for school-aged or young children**

‘(1) For section 9(3) of the Act, this section states, for work in the entertainment industry, when a school-aged or young child may not work.

‘(2) However, this section does not apply to work a school-aged or young child does in a business, or for a corporation, that is totally owned by a close adult relative of the school-aged or young child.

‘(3) The child may not work in the following circumstances—

(a) if the work is in recorded entertainment—

(i) if the hours of work are outside the hours during which a school-aged or young child may work set out in schedule 1, column 2 opposite the age, set out in schedule 1, column 1, that corresponds to the child’s age; or

(ii) if the child has already worked the maximum working hours a day set out in schedule 1, column 3 opposite the age, set out in schedule 1, column 1, that corresponds to the child’s age; or

(iii) if in the previous 7 days the child has already worked the maximum number of days of work in the previous 7 days set out in schedule 1, column 4 opposite the age, set out in schedule 1, column 1, that corresponds to the child’s age;

(b) if the work is in live entertainment—

(i) if the hours of work are outside the hours during which a school-aged or young child may work set out in schedule 2, column 2 opposite the age, set

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- out in schedule 2, column 1, that corresponds to the child's age; or
- (ii) if the child has already worked the maximum working hours a day set out in schedule 2, column 3 opposite the age, set out in schedule 2, column 1, that corresponds to the child's age; or
  - (iii) if in the previous 7 days the child has already worked the maximum number of days of work in the previous 7 days set out in schedule 2, column 4 opposite the age, set out in schedule 2, column 1, that corresponds to the child's age;
- (c) if the child started work before 10a.m. on a day—the child has not been given at least 1 hour's break starting at or before 1p.m. on the day including the break mentioned in paragraph (d);
  - (d) the child has already worked 5 consecutive hours and has not been given at least 1 hour's break at the end of the fifth hour;
  - (e) if the child is under 13 years—the child has not been given at least 10 minutes break at the end of each 50 minutes worked, unless the child is starting a break under paragraph (c) or (d);
  - (f) the child has already worked for the same employer within the last 12 hours;
  - (g) the child has already worked one shift on the day, unless the shift was interrupted once to enable the child to attend school;
  - (h) if it is a school day on which the child is required to attend school for at least 3 hours—the child has already worked 4 hours on the day;
  - (i) if the work is in recorded entertainment and the child must attend school on the morning of the day following the work—after 9p.m.;
  - (j) if, in the previous 7 days, the total of the following is more than 40 hours—

- (i) the hours, if any, the child has already worked for any employer; and
- (ii) the hours, if any, the child is required to attend school, including, the hours, if any, the child is required to participate in an external program under the *Education (General Provisions) Act 2006*.

*Note—*

Under the *Education (General Provisions) Act 2006*, schedule 4, *external program* is defined to include a program under flexible arrangements approved under section 182 or 183 of that Act.

## **‘15 Calculating hours already worked**

- ‘(1) This section applies for section 14(3)(a)(ii), (b)(ii), (d), (f), (h) and (j)(i).
- ‘(2) For calculating the hours a school-aged or young child has already worked, each of the following must be counted—
  - (a) all of the time the child is at work excluding a 1 hour break under section 14(3)(c) or (d); and
  - (b) any time beyond 45 minutes spent by the child in travelling from the child’s home to the place of work; and
  - (c) any time beyond 45 minutes spent by the child in travelling from the day’s final place of work to the child’s home; and
  - (d) if the employer is responsible for bringing the child to work—any time between the child’s arrival at the place of work and the child starting work; and
  - (e) if the employer is responsible for taking the child home from work—any time between the child’s finishing work and the start of the child’s journey home from work.

## **‘16 Prescribed supervision of school-aged or young children**

- ‘(1) For section 9(6)<sup>5</sup> of the Act, this section prescribes the way for an employer to supervise a school-aged or young child who does work in the entertainment industry.
- ‘(2) The way is to have the child directly supervised—
- (a) by a parent of the child; or
  - (b) if the child is under 6 years—
    - (i) by a person with a qualification mentioned in the *Child Care Regulation 2003*, section 112(a) to (c), 113(a) to (c), 114 or 115;<sup>6</sup> or
    - (ii) by a registered nurse; or
    - (iii) by a midwife; or
  - (c) if the child is at least 6 years—by a person with a qualification mentioned in the *Child Care Regulation 2003*, section 112(d) or 113(d).

*Example of something that may prevent the child being directly supervised—*

other duties given by the employer to the supervisor

- ‘(3) However, the child must be directly supervised by at least the following number of supervisors who are permitted to supervise the child under subsection (2)—
- (a) for children under 3 years—1 supervisor for each 2 children;
  - (b) for young children who are at least 3 years—1 supervisor for each 4 children;
  - (c) for school-aged children—1 supervisor for each 8 children.

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5 Section 9 (Restrictions on work performed by children) of the Act

6 *Child Care Regulation 2003*, section 112 (Qualifications for assistant—Act, sch 2, definition *qualified assistant*), 113 (Qualifications for group leader—Act, sch 2, definition *qualified group leader*), 114 (Qualifications for director—Act, sch 2, definition *qualified director*) or 115 (Qualifications for coordinator—Act, sch 2, definition *qualified coordinator*)

- ‘(4) However, for calculating the number of supervisors, if the number of children—
- (a) under subsection (3)(a) is not a multiple of 2, the number of children is rounded up to the next higher multiple of 2 children; and
- Examples—*
- for 1 child under 3 years there must be at least 1 of the supervisors
  - for 3 children under 3 years there must be at least 2 of the supervisors
- (b) under subsection (3)(b) is not a multiple of 4, the number of children is rounded up to the next higher multiple of 4 children; and
  - (c) under subsection (3)(c) is not a multiple of 8, the number of children is rounded up to the next higher multiple of 8 children.

### **‘Division 3                    Employers’ duties for school-aged    or young children**

#### **‘17        Employer to whom this division applies**

‘This division applies to an employer of a school-aged or young child who does work in the entertainment industry (a *prescribed child*).

#### **‘18        Information for parents about child employment guide**

- ‘(1) An employer of a prescribed child must tell a parent of the child about the existence of the child employment guide mentioned in section 8.

Maximum penalty—20 penalty units.

- ‘(2) An employer of a prescribed child must give a parent of the child a copy of the child employment guide if the parent asks for a copy.

Maximum penalty—20 penalty units.

- ‘(3) This section does not apply to the employer of a prescribed child who is the child’s parent.

**‘19 Employer’s duty about collection of prescribed child and travel home**

- ‘(1) An employer of a prescribed child must take reasonable steps to ensure the child is collected from work by—
- (a) a parent of the child; or
  - (b) a person authorised in writing by a parent of the child to collect the child.

Maximum penalty—40 penalty units.

- ‘(2) However, if the child is at least 13 years—
- (a) subsection (1) does not apply if—
    - (i) the distance between work and the child’s home is less than 10kms and, in the ordinary course, the child will finish travelling home before 6p.m.; or
    - (ii) the child’s parent has given the employer written consent to the child’s travel home alone, and, in the ordinary course, the child will finish travelling home before 8.30p.m.; and
  - (b) if subsection (1) does not apply, the employer must take reasonable steps to ensure the child starts to travel home within 30 minutes after the child finishes work, unless the child is with a parent of the child.

Maximum penalty for paragraph (b)—40 penalty units.

**‘20 Employer’s duty to provide food and drink**

- ‘(1) An employer of a prescribed child must provide to the child, at all reasonable times while the child is at work, appropriate and nutritious food, having regard to the age, culture, dietary restrictions (if any), and taste of the child.

Maximum penalty—40 penalty units.

- ‘(2) An employer of a prescribed child must make available to the child, while the child is at work, water and other suitable drinks.

Maximum penalty—40 penalty units.

## ‘21 **Employer’s duty to protect from climatic conditions**

‘An employer of a prescribed child must ensure, while the child is at work, that the child is suitably clothed and otherwise protected from injury or illness that may be caused by climatic conditions.

*Example of injury or illness that may be caused by climatic conditions—*  
sunburn

Maximum penalty—40 penalty units.

## ‘22 **Employer’s duty about facilities for dressing and undressing**

- ‘(1) This section applies if an employer of a prescribed child does not provide a building at the workplace for the prescribed child to occupy while performing work in the entertainment industry.

*Note—*

For an employer’s obligations if a building is provided, see the *Workplace Health and Safety Regulation 1997*, schedule 8C (Employers—particular amenities for work that is not construction work or rural industry work), part 3 (If worker is at workplace where employer provides non-class 10 building for workers to occupy), division 4 (Dressing room facilities).

- ‘(2) The employer must ensure that facilities that enable the child to dress and undress in private are available to the child while the child is at work.

Maximum penalty—40 penalty units.

- ‘(3) In this section—

***building***—

- 1 A *building* is a fixed structure that is wholly or partly enclosed by walls and is roofed.

- 2 The term includes a floating building and any part of a building.

**‘23 Employer’s duty to provide recreation materials and rest facilities**

‘An employer of a prescribed child must provide to the child appropriate recreational materials and rest facilities during breaks in the child’s work, having regard to the age and developmental needs of the child.

Maximum penalty—40 penalty units.

**‘24 Employer’s duty about unfitness for work and contagious medical conditions**

‘(1) An employer of a prescribed child must not require or permit the child to work if the employer knows, or reasonably ought to know, that the child is—

- (a) unfit for work because of illness or injury; or
- (b) carrying, or has been exposed to, a contagious medical condition that may be a risk to the health of another person at the workplace.

Maximum penalty—40 penalty units.

‘(2) An employer of a prescribed child who is a young child must take reasonable steps to immediately notify a parent of the child or, if a parent cannot be contacted, a nominated person, if—

- (a) the child, while at work, becomes ill or is injured; or
- (b) the employer knows, or reasonably ought to know, that the child has been exposed to a contagious medical condition while at work.

Maximum penalty—40 penalty units.

‘(3) Subsection (2) does not apply to the employer of a prescribed child who is the child’s parent.



## **‘25 Employer’s duty about presence of parent**

‘(1) An employer of a prescribed child must permit a parent of the child to be at the workplace while the child is at the workplace.

Maximum penalty—40 penalty units.

‘(2) However, the employer may exclude a parent of the child from the workplace or from direct contact with the child if—

(a) the exclusion is for a limited time and from a limited area; and

(b) the purpose of the exclusion is—

(i) to ensure the employer’s production is not unduly disrupted; or

(ii) to protect the health or safety of a person in the workplace, including, for example, the parent.

‘(3) Subsection (2) does not apply while the parent is present under section 3A(3)(c) or 12(4)(c).

‘(4) An employer of a prescribed child whose work requires the child to spend 1 or more nights away from the child’s home must arrange and pay for appropriate accommodation for the child during the absence and, if asked for by the parent, for 1 parent of the child during the absence.

Maximum penalty—40 penalty units.

## **‘26 Employer’s duty to engage teacher**

‘(1) This section applies if—

(a) arrangements for a child are approved under the *Education (General Provisions) Act 2006*, section 182 or 183;<sup>7</sup> and

(b) under the arrangements, a program for the child must be provided by a registered teacher.

‘(2) An employer of a prescribed child must—

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<sup>7</sup> *Education (General Provisions) Act 2006*, section 182 (Flexible arrangements—non-State school) or 183 (Flexible arrangements—State school)

- (a) engage a qualified teacher to provide the program during the hours of the program, if any, that fall within the hours the child works for the employer; and
- (b) provide a place and facilities that the registered teacher reasonably considers are needed for providing the program.

Maximum penalty—40 penalty units.

‘(3) In this section—

*qualified teacher* means a registered teacher who is able to provide the program.

## ‘27 **Records for prescribed children**

‘(1) An employer of a prescribed child must keep a record containing the following details—

- (a) details of any medical condition of the child, including allergies;
- (b) details of any medicinal needs of the child;
- (c) details of any dietary restrictions of the child;
- (d) the name, address, and any home or business phone number of a person authorised in writing by a parent of the child to collect the child from work;
- (e) the address of the child’s current workplace, or if there is no address, information enabling the workplace to be readily located.

Maximum penalty—40 penalty units.

‘(2) The employer must keep the record for at least 2 years after the child stops working for the employer, at a place from which the employer conducts operations as an employer.’.

## 10 **Amendment of schedule (Dictionary)**

(1) Schedule—

*renumber* as schedule 3.

(2) Schedule 3, as renumbered—

*insert—*

**'home**, in relation to a child, means the place where the child is living.

**live entertainment** includes the following—

- (a) theatre;
- (b) musical theatre;
- (c) opera;
- (d) circus entertainment;
- (e) a fashion parade;
- (f) a performance in a shopping centre;
- (g) a promotional event.

**midwife** has the meaning given by the *Nursing Act 1992*.

**prescribed child** see section 17.

**recorded entertainment** includes the following—

- (a) film or a similar production;
- (b) television;
- (c) advertising
- (d) radio;
- (e) photographic modelling;
- (f) a performance recorded only for use in subsequent entertainment or a subsequent exhibition;
- (g) any other entertainment that is not live entertainment.

**registered nurse** means a registered nurse under the *Nursing Act 1992*.

**registered teacher** see the *Education (Queensland College of Teachers) Act 2005*, schedule 3.

## 11 Insertion of new schs 1 and 2

After section 27—

*insert—*

## **‘Schedule 1      Permitted working hours for school-aged or young children working in recorded entertainment**

section 14(3)(a)

<b>Column 1 Age</b>	<b>Column 2 Hours during which school-aged or young child may work</b>	<b>Column 3 Maximum working hours a day</b>	<b>Column 4 Maximum number of days of work in the previous 7 days</b>
Under 3 years	6a.m. to 6p.m.	4	3
At least 3 years but under 8 years	6a.m. to 11p.m.	6	4
At least 8 years but under 16 years	6a.m. to 11p.m.	8	5

*Note—*

Children who have completed year 10 are not school-aged children whatever their age, and their working hours are not limited by this schedule.

## ‘Schedule 2      Permitted working hours for school-aged or young children working in live entertainment

section 14(3)(b)

Column 1 Age	Column 2 Hours during which school-aged or young child may work	Column 3 Maximum working hours a day	Column 4 Maximum number of days of work in the previous 7 days
Under 2 years	9a.m. to 6p.m.	4	1
At least 2 years but under 6 years	9a.m. to 6p.m.	4	3
At least 6 years but under 10 years	9a.m. to 10p.m.	4	4
At least 10 years but under 12 years	9a.m. to 11p.m.	6	4
At least 12 years but under 16 years	9a.m. to 11p.m.	8	4

*Note—*

Children who have completed year 10 are not school-aged children whatever their age, and their working hours are not limited by this schedule.’.

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### ENDNOTES

- 1    Made by the Governor in Council on 14 December 2006.
- 2    Notified in the gazette on 15 December 2006.
- 3    Laid before the Legislative Assembly on . . .
- 4    The administering agency is the Department of Employment and Industrial Relations.

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