



Queensland

Child Employment Regulation 2016

Subordinate Legislation 2016 No. 137

made under the

Child Employment Act 2006

State Penalties Enforcement Act 1999

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[s 1]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Child Employment Regulation 2016*.

2 Commencement

This regulation commences on 1 September 2016.

3 Dictionary

The dictionary in schedule 3 defines particular words used in this regulation.

Part 2 General provisions for work performed by children

Division 1 General restrictions on children working

4 Restrictions on work for children under 13 years

- (1) Generally, for section 9(1) of the Act, an employer must not require or permit a child under 13 years to do any work.
- (2) However, a child of any age may do volunteer work or work in the entertainment industry.
- (3) Also, a child who is at least 11 years may do delivery work.

Note—

A special circumstances certificate may provide an exception to requirements under this section. See, however, section 9(5) of the Act.

Division 2 General restrictions on working hours for children

Note—

See part 3, divisions 2 and 3 for provisions about restrictions on the working hours for a child in the entertainment industry.

5 Purpose of division

This division states, for section 9(3) of the Act, when a child may not work.

Note—

A special circumstances certificate may provide an exception to requirements under this division. See, however, section 9(5) of the Act.

6 Application of division

This division does not apply in relation to work done by a child—

- (a) that is work in the entertainment industry; or

Note—

See part 3, divisions 2 and 3 for provisions about restrictions on the working hours for a child in the entertainment industry.

- (b) in a family business.

7 Prohibited working hours

- (1) A school-aged or young child may not work between 10.p.m. and 6.a.m.
- (2) A child who is 11 or 12 years may not do delivery work between 6.p.m. and 6.a.m.

8 Working hours for young children

A young child may not work if—

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- (a) the child has already worked 12 hours during a week; or
- (b) the child has already worked 4 hours during a day; or
- (c) the child has already worked for the same employer for a period of time that ended within the previous 12 hours.

9 Working hours for school-aged children

- (1) A school-aged child may not work if—
 - (a) it is a school week and the child has already worked 12 hours during the week; or
 - (b) it is a week that is not a school week and the child has already worked 38 hours during the week; or
 - (c) it is a school day and the child has already worked 4 hours on the day; or
 - (d) it is a day that is not a school day and the child has already worked 8 hours on the day; or
 - (e) the child has already worked for the same employer for a period of time that ended within the previous 12 hours.
- (2) Unless a relevant industrial instrument provides otherwise, a school-aged child may not continue to work on a particular day if—
 - (a) the child has worked 4 consecutive hours on the day and not had at least 1 hour rest at the end of the fourth hour; or
 - (b) the child has already worked for a period of time on the day.
- (3) In this section—

school day means a day on which the school-aged child is required to attend school.

school week means a week, starting on a Sunday, during which the school-aged child is required to attend school.

10 Calculating hours worked

For the purpose of calculating the hours worked by a school-aged or young child during a particular period, the hours worked by the child for any employer during the period must be counted.

Division 3 Supervision

Note—

See part 3, division 4 for provisions about the supervision of a child working in the entertainment industry.

11 Supervision

- (1) This section applies while a school-aged or young child does—
 - (a) delivery work; or
 - (b) work that involves the exchange of money.
- (2) For section 9(6) of the Act, the prescribed way for the employer to supervise the child for the work is to ensure an adult is near the child and in regular contact with the child.

Division 4 Working conditions related to children's safety, health and wellbeing

Note—

See part 3, division 5 for other working conditions related to the safety, health and wellbeing of a child working in the entertainment industry.

12 Notice to parents

- (1) This section does not apply to—

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- (a) an employer of a child if the employer is a parent of the child; or
 - (b) an employer of a young child if the child works in the entertainment industry.
- (2) If a child is injured or becomes ill while at work and is no longer able to work, an employer of the child must ensure all reasonable steps are taken to notify a parent of the child about the injury or illness or, if it is not practicable to notify a parent, a nominated person for the child.

Maximum penalty—40 penalty units.

13 Protection against particular harm

An employer of a child must take reasonable steps to ensure the child is not subject to deliberate or unnecessary social isolation or any behaviour likely to intimidate, threaten, frighten or humiliate the child.

Maximum penalty—40 penalty units.

14 Communication with parents

- (1) An employer of a child must take reasonable steps to ensure that, while the child is at work, the child is able to contact a parent or, if it is not practicable to contact a parent, a nominated person for the child.

Maximum penalty—40 penalty units.

- (2) An employer of a child must, while the child is at work and if it is reasonable in the circumstances, allow the child to contact a parent or, if a parent can not be contacted, a nominated person for the child.

Maximum penalty—40 penalty units.

15 Induction training

An employer of a child must ensure the child is given induction training appropriate to the child's age, including workplace health and safety training.

Maximum penalty—40 penalty units.

Division 5 Other working conditions

Note—

See part 3, division 6 for other working conditions for a child working in the entertainment industry.

16 Records to be kept

- (1) An employer of a child must keep a record about the child's employment with the employer that includes the following information—
 - (a) the full name, date of birth and address of the child;
 - (b) the name, address and phone number of—
 - (i) the employer; and
 - (ii) a parent of the child; and
 - (iii) a nominated person for the child;
 - (c) the address of the child's workplace;
 - (d) if the child is a school-aged or young child, particulars of the work done by the child, including—
 - (i) the days and times when the child worked, including the time the child started work and the time the child finished work on a day; and
 - (ii) the rest periods for the child, including meal breaks;

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- (e) if the child is not a school-aged or young child—a copy of an identification document issued under an Act or by the child’s school showing the child’s date of birth;

Examples—

passport, birth certificate, school identification card

- (f) a copy of any of the following relevant to the child’s employment—
- (i) special circumstances certificate;
 - (ii) work limitation notice;
 - (iii) parent’s consent form.

Maximum penalty—40 penalty units.

- (2) The employer must keep the record at the employer’s place of business for 2 years after the last day the child worked for the employer.

Maximum penalty—40 penalty units.

- (3) This section applies in addition to the record-keeping requirements under the *Industrial Relations Act 1999*.

17 Child employment guide

An employer of a school-aged or young child must ensure a copy of the child employment guide is displayed conspicuously in the child’s workplace and can be easily accessed by the child to read.

Maximum penalty—20 penalty units.

18 Special circumstances certificate

An application under section 12 of the Act for a special circumstances certificate must be made at least 21 days before the certificate is needed.

Part 3 Provisions for work performed by children in entertainment industry

Division 1 Preliminary

19 Application of part

This part applies in relation to a school-aged or young child working in the entertainment industry.

Note—

This part applies in addition to the requirements relating to school-aged or young children who work in the entertainment industry under part 2, divisions 3, 4 and 5.

Division 2 General restrictions on children under 12 weeks working

20 Purpose of division

This division states, for section 9(1)(b) of the Act, when a child under 12 weeks is permitted to work in the entertainment industry.

21 Working 1 hour or less

A child who is under 12 weeks is permitted to work for 1 hour or less on a day if—

- (a) a parent of the child is present while the child is at work;
and
- (b) the employer is satisfied on advice from a parent of the child that—
 - (i) the child was born at full term and in good health;
and

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- (ii) the child's birth weight was at least 3 kilograms; and
- (iii) the child has not had a health problem since birth; and
- (iv) the child is feeding properly; and
- (v) the child's weight gain from birth has been satisfactory.

22 Working more than 1 hour

A child who is under 12 weeks is permitted to work for more than 1 hour on a day if—

- (a) a parent of the child, and a midwife or registered nurse, are present while the child is at work; and
- (b) the midwife or registered nurse advises the employer that the work environment is unlikely to distress the child and that the child is suitable to perform the work; and
- (c) the employer follows the advice of the midwife or registered nurse about the welfare of the child.

Division 3 General restrictions on working hours for school-aged or young children

23 Purpose of division

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

24 Application of division

This division does not apply in relation to work done by a school-aged or young child in a family business.

25 Working hours generally

- (1) A school-aged or young child may not work if—
- (a) for a child who started work before 8a.m. on a day—the child has not been given at least 1 hour rest at the end of the fifth hour; or
 - (b) for a child who started work between 8a.m. and 10a.m. on a day—the child has not been given at least 1 hour rest starting before 1p.m. on the day; or
 - (c) for a child under 13 years who has worked for 50 minutes—the child has not been given at least 10 minutes rest, unless the child is starting a rest period under paragraph (a) or (b); or
 - (d) the child has already worked for the same employer for a period of time that ended within the previous 12 hours; or
 - (e) if it is a school day and the child is required to attend school for at least 3 hours—the child has already worked for 4 hours on the day; or
 - (f) if, in the previous 7 days, the total of the following is more than 40 hours—
 - (i) the hours the child has worked for any employer;
 - (ii) the hours 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 arrangements approved under section 182 or 183 of that Act, including programs under flexible arrangements.
- (2) Also, if a child has worked for an employer for a period of time on a particular day, the child may not work again for the employer on the day unless—
- (a) the child left work to attend school; and

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- (b) the child works for the employer for only 1 further period of time on the day.

26 Working hours in recorded entertainment

- (1) A school-aged or young child may not work in recorded entertainment—
 - (a) after 9p.m. on a day if the child is required to attend school before 9a.m. on the next day; or
 - (b) outside the hours during which a child may work stated in schedule 1, column 2 for the child's age group; or
 - (c) if the child has worked for the maximum working hours for a day stated in schedule 1, column 3 for the child's age group; or
 - (d) if, in the previous 7 days, the child has worked on the maximum number of days a child may work in a 7 day period stated in schedule 1, column 4 for the child's age group.
- (2) In this section—

age group, for a child, means the age group stated in schedule 1, column 1 that corresponds to the child's age.

27 Working hours in live entertainment

- (1) A school-aged or young child may not work in live entertainment—
 - (a) outside the hours during which a child may work stated in schedule 2, column 2 for the child's age group; or
 - (b) if the child has worked for the maximum working hours for a day stated in schedule 2, column 3 for the child's age group; or
 - (c) if, in the previous 7 days, the child has worked on the maximum number of days a child may work in a 7 day period stated in schedule 2, column 4 for the child's age group.

(2) In this section—

age group, for a child, means the age group stated in schedule 2, column 1 that corresponds to the child's age.

28 Calculating hours worked

For the purpose of calculating the hours worked by a child under this division, the following must be counted—

- (a) the time the child is at work, other than a rest period for the child under section 25(1)(a) and (b); and
- (b) if the child spent more than 45 minutes travelling from home to a workplace—the time starting 45 minutes after the child left home and ending when the child arrived at the place; and
- (c) if the child spent more than 45 minutes travelling from the day's final workplace to home—the time starting 45 minutes after the child left the place and ending when the child arrived home; and
- (d) if the employer brings the child to a workplace—the time starting when the child arrives at the place and ending when the child starts work; and
- (e) if the employer takes the child home from a workplace—the time starting when the child finishes work and ending when the child starts the journey home.

Division 4 Supervision

29 Meaning of *supervisor*

- (1) A **supervisor**, for a child aged 6 years to 15 years, is—
 - (a) a parent of the child; or
 - (b) a person who holds a certificate III level education and care qualification or approved diploma level education

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and care qualification under the *Education and Care Services Regulation 2013*.

- (2) A **supervisor**, for a child under 6 years, is—
- (a) a person mentioned in subsection (1); or
 - (b) a registered nurse; or
 - (c) a midwife.

30 Supervisor to child ratios

- (1) For section 9(6) of the Act, this section prescribes the ways for an employer of a school-aged or young child to supervise the child.
- (2) The child is to be directly supervised by at least the following number of supervisors—
- (a) if the child is under 3 years—1 supervisor for every 2 children under 3 years;
Examples—
 - 1 for 1 child under 3 years there must be at least 1 supervisor directly supervising the child
 - 2 for 3 children under 3 years there must be at least 2 supervisors directly supervising the children
 - (b) if the child is a young child who is 3 years or over—1 supervisor for every 4 young children who are 3 years or over;
 - (c) if the child is a school-aged child—1 supervisor for every 8 school-aged children.
- (3) For working out the number of supervisors required under subsection (2)—
- (a) if the number of children under 3 years is not a multiple of 2—the number is taken to be the next highest multiple of 2; and
 - (b) if the number of young children who are 3 years or over is not a multiple of 4—the number is taken to be the next highest multiple of 4; and

-
- (c) if the number of school-aged children is not a multiple of 8—the number is taken to be the next highest multiple of 8.

Division 5 Working conditions related to children’s safety, health and wellbeing

31 Notice to parents

- (1) This section does not apply to an employer of a school-aged or young child if the employer is a parent of the child.
- (2) An employer of a young child must ensure that, if the child is injured or becomes ill while at work, all reasonable steps are taken to notify a parent of the child or, if a parent can not be notified, a nominated person for the child.

Maximum penalty—40 penalty units.

- (3) If an employer of a young child knows, or reasonably ought to know, the child has been exposed to a contagious medical condition while at work, the employer must ensure all reasonable steps are taken to notify a parent of the child or, if a parent can not be notified, a nominated person for the child.

Maximum penalty—40 penalty units.

32 Access for parents

- (1) An employer of a school-aged or young child must allow a parent of the child to be at the child’s workplace while the child is at work.

Maximum penalty—40 penalty units.

- (2) An employer does not commit an offence against subsection (1) if the employer excludes a parent of a school-aged or young child from an area of the workplace where the child is working, or from contacting the child directly, if—
- (a) the parent is excluded for a limited time; and

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- (b) the reason for excluding the parent is—
 - (i) to ensure the employer’s production is not disrupted; or
 - (ii) to protect the health and safety of a person in the workplace.
- (3) Subsection (2) does not apply if a parent is present under section 8A(2)(c) or 8C(3)(c) of the Act.

33 Engaging teachers

- (1) This section applies if—
 - (a) an arrangement has been approved for a school-aged child under the *Education (General Provisions) Act 2006*, section 182 or 183; and
 - (b) under the arrangement—
 - (i) a registered teacher must provide a program to the child; and
 - (ii) the hours when the program must be provided are during a period of time when the child is to work for an employer.
- (2) The employer of the child must not require or permit the child to work unless—
 - (a) the employer engages a qualified teacher to provide the program during the program hours; and
 - (b) the employer provides an area and facilities that the qualified teacher reasonably considers are needed to provide the program.

Maximum penalty—40 penalty units.

- (3) In this section—

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

registered teacher means a registered teacher under the *Education (Queensland College of Teachers) Act 2005*.

34 Exposure of children under 12 weeks to particular harm

An employer of a child who is under 12 weeks must ensure the child is not—

- (a) exposed to harmful lights; or
- (b) exposed to cosmetics that may cause irritation or be contaminated; or
- (c) exposed to, or touched by, a person the employer knows, or reasonably ought to know, has a contagious medical condition that can be transmitted by touch.

35 Illness or injury

- (1) An employer must not require or permit a school-aged or young child to work if the employer knows, or reasonably ought to know, the child is injured or ill, and is not able to work.

Maximum penalty—40 penalty units.

- (2) An employer must not require or permit a school-aged or young child to work if the employer knows, or reasonably ought to know, the child has been exposed to a contagious medical condition.

Maximum penalty—40 penalty units.

36 Leaving a workplace—children under 13 years

An employer of a child under 13 years must take reasonable steps to ensure the child does not leave the child's workplace unless the child is in the care of a parent or an authorised person.

Maximum penalty—40 penalty units.

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37 Leaving a workplace—children 13 years or older

An employer of a school-aged child who is 13 years or older must take reasonable steps to ensure the child does not leave the child's workplace unless—

- (a) the child is in the care of a parent or an authorised person; or
- (b) all of the following apply—
 - (i) the child's home is less than 10km from the child's workplace;
 - (ii) the child's journey home will ordinarily have the child arriving home before 6p.m.;
 - (iii) the employer has taken reasonable steps to ensure the child starts the journey home within 30 minutes after the child finishes work; or
- (c) all of the following apply—
 - (i) a parent of the child has given the employer written consent to allow the child to travel home alone;
 - (ii) the child's journey will ordinarily have the child arriving home before 8:30p.m.;
 - (iii) the employer has taken reasonable steps to ensure the child starts the journey home within 30 minutes after the child finishes work.

Maximum penalty—40 penalty units.

Division 6 Other working conditions

38 Application of division

This division applies to an employer of a school-aged or young child.

39 Child employment guide

- (1) This section does not apply to an employer of a child if the employer is a parent of the child.
- (2) The employer must ensure the following are given to a parent of the child—
 - (a) information about the child employment guide;
 - (b) if requested by the parent—a copy of the guide.

Maximum penalty for subsection (2)—20 penalty units.

40 Food and drink

- (1) The employer must provide the child with safe drinking water at all times and provide food and beverages appropriate to the needs of the child on a regular basis while the child is at work.

Maximum penalty—40 penalty units.

- (2) The employer must ensure food or beverages provided for the child are nutritious, adequate in quantity and chosen having regard to the child's age, culture, dietary requirements and taste.

Maximum penalty—40 penalty units.

41 Protection from weather

The employer must ensure the child is adequately clothed and protected from illness or injury caused by the weather.

Example of an injury caused by weather—

sunburn

Maximum penalty—40 penalty units.

42 Dressing facilities

The employer must provide adequate and appropriate changing facilities for the child to use while at work that allow the child to change clothes in private.

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Maximum penalty—40 penalty units.

43 Rest facilities

The employer must provide adequate and appropriate rest facilities for the child to use while at work that take into account the child's age and development needs.

Maximum penalty—40 penalty units.

44 Recreational materials

The employer must provide adequate and appropriate recreational materials for the child to use while at work that take into account the child's age and development needs.

Maximum penalty—40 penalty units.

45 Accommodation

- (1) This section applies if the employer requires the child to be away from home for 1 or more nights.
- (2) The employer must provide, and pay for, appropriate accommodation for the child while the employer requires the child to be away from home.

Maximum penalty—40 penalty units.

- (3) The employer must provide, and pay for, appropriate accommodation for a parent of the child while the employer requires the child to be away from home if—
 - (a) the parent asks the employer to provide, and pay for, the accommodation; and
 - (b) the parent accompanies the child.

Maximum penalty—40 penalty units.

46 Records to be kept

- (1) The employer must keep a record about the child that includes the following information—
 - (a) particulars of any medical conditions or allergies suffered by the child;
 - (b) particulars of any medical needs of the child;
 - (c) particulars of any dietary needs of the child;
 - (d) the name, address and phone number of an authorised person;
 - (e) the address of the child’s workplace or, if there is no address, particulars of the workplace to ensure it can be located.

Maximum penalty—40 penalty units.

- (2) The employer must keep the record at the employer’s place of business for 2 years after the last day the child worked for the employer.

Part 4 Repeal

47 Repeal

The Child Employment Regulation 2006 SL No. 143 is repealed.

Part 5 Amendment of State Penalties Enforcement Regulation 2014

48 Regulation amended

This part amends the *State Penalties Enforcement Regulation 2014*.

[s 49]

49 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

Schedule 1, entry for *Child Employment Regulation 2006*—
omit, insert—

Child Employment Regulation 2016

	Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)	
		Individual	Corporation
s 16(1)		4	20
s 16(2)		4	20
s 17		2	10

Authorised person for service of infringement notices—an inspector performing functions under the *Child Employment Act 2006*, section 16

Schedule 1 Working hours for school-aged or young children working in recorded entertainment

section 26

Column 1	Column 2	Column 3	Column 4
Age	Hours during which a child may work in recorded entertainment	Maximum working hours a day	Maximum number of days a child may work in the previous 7 days
Under 3 years	6a.m. to 6p.m.	4	3
3 years to 7 years	6a.m. to 11p.m.	6	4
8 years to 15 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 Working hours for school-aged or young children working in live entertainment

section 27

Column 1	Column 2	Column 3	Column 4
Age	Hours during which a child may work in recorded entertainment	Maximum working hours a day	Maximum number of days a child may work in the previous 7 days
Under 2 years	9a.m. to 6p.m.	4	1
2 years to 5 years	9a.m. to 6p.m.	4	3
6 years to 9 years	9a.m. to 10p.m.	4	4
10 years and 11 years	9a.m. to 11p.m.	6	4
12 years to 15 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.

Schedule 3 Dictionary

section 3

authorised person, for a child, means a person authorised, in writing, by a parent of the child to collect the child from a workplace.

child employment guide means a guide about children at work published by the chief executive.

Editor's note—

The child employment guide is published on the website www.business.qld.gov.au.

close relative, of a child, means an adult who is a parent, grandparent, aunt, uncle or sibling of the child.

delivery work means delivering newspapers, advertising material or other similar things.

family business, in relation to a child, means a business or constitutional corporation that is wholly owned by a close relative of the child.

home, in relation to a child, means the place where the child lives.

industrial instrument means a federal award, federal agreement or industrial instrument under the *Industrial Relations Act 1999*.

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 means a person registered under the Health Practitioner Regulation National Law to practise in the nursing and midwifery profession as a midwife, other than as a student.

nominated person, for a child, means a person nominated, in writing, by a parent of the child as being responsible for the child if the parent can not be contacted.

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 later entertainment or a later exhibition;
- (g) any other entertainment that is not live entertainment.

registered nurse means a person registered under the Health Practitioner Regulation National Law—

- (a) to practise in the nursing and midwifery profession as a nurse, other than as a student; and
- (b) in the registered nurses division of that profession.

sibling includes half-brother, half-sister, stepbrother and stepsister.

supervisor, of a school-aged or young child, see section 29.

work in the entertainment industry means—

- (a) work that is performing, including, for example—
 - (i) acting, dancing, miming, playing, singing, speaking or modelling;
 - (ii) standing in for someone else;
 - (iii) rehearsing, preparing or taking part in publicity for a performance; but

- (b) does not include work done by a person whose duties are not normally related to performing but who is sometimes asked to perform, for example, as an announcer or in advertising.

ENDNOTES

- 1 Made by the Governor in Council on 18 August 2016.
- 2 Notified on the Queensland legislation website on 19 August 2016.
- 3 The administering agency is the Queensland Treasury.

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