



Queensland

Industrial Relations (Minimum Employment Age) Amendment Bill 2004



Queensland

Industrial Relations (Minimum Employment Age) Amendment Bill 2004

Contents

		Page
1	Short title	4
2	Act amended	4
3	Insertion of new ch 2, pt 7	4
	Part 7 Special employment conditions for children	
	71A Purpose of ch 2, pt 7	4
	71B Definitions for ch 2, pt 7	4
	71C Child may be employed	5
	71D Limitations on nature of work if child is under 15 years	5
	71E Further limitations on nature of work if child is under 13 years	8
	71F Limitations about time a child under 15 years may work without rest	9
	71G Limitation on children working because work is inappropriate	10
4	Insertion of new s 734	10
	734 Transitional provision for Industrial Relations (Minimum Employment Age) Amendment Act 2004. .	11
5	Amendment of sch 5 (Dictionary)	11

2004

A Bill

for

An Act to amend the *Industrial Relations Act 1999*

*Industrial Relations (Minimum Employment Age)
Amendment Bill 2004*

The Parliament of Queensland enacts—

1

Clause 1 Short title

2

This Act may be cited as the *Industrial Relations (Minimum
Employment Age) Amendment Act 2004*.

3

4

Clause 2 Act amended

5

This Act amends the *Industrial Relations Act 1999*.

6

Clause 3 Insertion of new ch 2, pt 7

7

After section 71—

8

insert—

9

**‘Part 7 Special employment conditions
 for children**

10

11

‘71A Purpose of ch 2, pt 7

12

‘(1) The purpose of this part is to make special provisions in
relation to the employment of children.

13

14

‘(2) The main way of achieving the purpose is to allow a child to
be employed but provide for limitations to ensure the
employment does not interfere with the child’s development,
education or wellbeing.

15

16

17

18

‘71B Definitions for ch 2, pt 7

19

‘In this part—

20

family, in relation to a child, means any of the following—

21

(a) a parent or step-parent of the child;

22

(b) a guardian of the child;

23

(c) a grandparent or step-grandparent of the child;

24

*Industrial Relations (Minimum Employment Age)
Amendment Bill 2004*

(d)	a sibling or step-sibling of the child;	1
(e)	an aunt, step-aunt, uncle or step-uncle of the child.	2
	<i>family employment</i> , in relation to a child, means employment	3
	of the child in a business or on a farm if the employer is a	4
	member of the child's family.	5
	<i>guardian</i> , of a child, means any of the following persons—	6
(a)	a person who is recognised by law as having all the	7
	duties, powers, responsibilities and authority in relation	8
	to the child that, by law, parents have in relation to their	9
	children; ¹	10
(b)	a person in whose favour a parenting order is in force	11
	under the <i>Family Law Act 1975</i> (Cwlth);	12
(c)	a carer of the child under the <i>Child Protection Act 1999</i> ;	13
(d)	a person who is entitled to the care and custody of the	14
	child under the <i>Adoption of Children Act 1964</i> .	15
	<i>performance or advertising job</i> includes a film, modelling,	16
	photographic, promotional, radio, stage or television	17
	production or work.	18
'71C	Child may be employed	19
	'Subject to this Act, it is declared that a child may be	20
	employed.	21
'71D	Limitations on nature of work if child is under	22
	15 years	23
'(1)	This section applies to a child who is under 15 years.	24
'(2)	A person must not employ the child in work involving or	25
	likely to involve the child in doing any of the following—	26
(a)	working during the child's normal school hours;	27

1 See the *Family Law Act 1975* (Cwlth), part 7 (Children), division 2 (Parental responsibility).

Industrial Relations (Minimum Employment Age)
Amendment Bill 2004

- (b) if the employment is other than family employment—working between 10 pm and 6 am; 1 2
 - (c) lifting a thing that weighs more than 10 kgs; 3
 - (d) working somewhere if there is any possibility of the child falling from a height of more than 1.5 m; 4 5
 - (e) working underwater if the work involves the child using a breathing apparatus other than a snorkel; 6 7
 - (f) working at, in or on a prescribed place or if the activities of the employment require the child to attend a prescribed place; 8 9 10
 - (g) working by going from place to place seeking out persons who may be prepared to enter, as consumers, into contracts for the supply of goods or services; 11 12 13
 - (h) working on a fishing ship other than a fishing ship on inland waters; 14 15
 - (i) working in licensed premises within the meaning of the *Liquor Act 1992*; 16 17
 - (j) working in any other environment that, on reasonable grounds, requires or is likely to require the awareness of, and caution from, danger, including potential dangers, that a reasonable adult would be expected to have. 18 19 20 21
- Maximum penalty—80 penalty units. 22
- ‘(3) A person must not employ a child— 23
- (a) on any day— 24
 - (i) for more than 4 hours for the day if it is a school day for the child; or 25 26
 - (ii) for more than 6 hours for the day if it is not a school day for the child; and 27 28
 - (b) during any week— 29
 - (i) for more than 12 hours if the week is a school week for the child; or 30 31
 - (ii) for more than 24 hours if the week is not a school week for the child. 32 33

*Industrial Relations (Minimum Employment Age)
Amendment Bill 2004*

- Maximum penalty—80 penalty units. 1
- ‘(4) A person must not employ a child unless— 2
- (a) if the employment is family employment for the child 3
and the supervisor of the child is not a member of the 4
child’s family—the supervisor is the holder of a current 5
positive notice; or 6
 - (b) if the employment is other than family employment for 7
the child and the employer is to supervise the child—the 8
employer is the holder of a current positive notice; or 9
 - (c) if the employment is other than family employment for 10
the child and someone other than the employer is to 11
supervise the child—the supervisor is the holder of a 12
current positive notice. 13
- Maximum penalty—15 penalty units. 14
- ‘(5) A supervisor who must hold a current positive notice under 15
subsection (4) is taken to be engaged in regulated employment 16
under the *Commission for Children and Young People and* 17
Child Guardian Act 2000, despite anything to the contrary in 18
that Act. 19
- ‘(6) An employer who must hold a current positive notice under 20
subsection (4), or who is the employer of a supervisor who 21
must hold a current positive notice under subsection (4), is 22
taken to be carrying on a regulated business under the 23
Commission for Children and Young People and Child 24
Guardian Act 2000, despite anything to the contrary in that 25
Act. 26
- ‘(7) In this section— 27
- current**, in relation to a positive notice, see the *Commission* 28
for Children and Young People and Child Guardian Act 2000, 29
schedule 4. 30
- fishing ship** has the meaning given for that term under the 31
Transport Operations (Marine Safety) Act 1994. 32
- inland waters** means— 33
- (a) a lake or swamp; or 34

*Industrial Relations (Minimum Employment Age)
Amendment Bill 2004*

- (b) an anabranch, channel or waterway from its mouth to its source and a backwater, inlet or lagoon connected with it; or
1
2
3
- (c) any other anabranch, backwater, billabong or lagoon; or
4
- (d) a channel, dam or reservoir, or works for water storage or distribution.
5
6
- normal school hours***, of a child, means—
7
- (a) if the child attends a school—the hours during which the child is expected to attend the school; or
8
9
- (b) in any other case—the hours that a child of the child's age would be expected, on reasonable grounds, to attend a school.
10
11
12
- positive notice*** see the *Commission for Children and Young People and Child Guardian Act 2000*, schedule 4.
13
14
- prescribed place*** means—
15
- (a) any type of mill, including, for example, a flour mill, paper mill, sawmill, sugar mill, steel mill or textile mill; or
16
17
18
- (b) any type of plant, including, for example, an assembly plant, bottling plant, chemical plant, power plant, recycling plant or sewerage plant; or
19
20
21
- (c) any type of factory, including, for example, a brewery, cannery, cement factory, distillery, footwear factory, foundry or textile factory; or
22
23
24
- (d) a boiler room, brickworks, construction site, cotton gin, drill rig, electrical sub-station, logging operation, machine shop, mint, mining site, quarrying site, reactor, refinery, saltworks, shipyard, slaughterhouse, smeltery, or water treatment facility.
25
26
27
28
29

- ‘71E Further limitations on nature of work if child is under 13 years**
30
31
- ‘(1) This section applies to a child who is under 13 years.
32
- ‘(2) A person must not employ the child unless—
33

*Industrial Relations (Minimum Employment Age)
Amendment Bill 2004*

(a)	the employer is a member of the child's family and the employment is family employment; or	1 2
(b)	the child is employed in acceptable employment.	3
	Maximum penalty—80 penalty units.	4
‘(3)	In this section—	5
	<i>acceptable employment</i> means 1 or more of the following—	6
(a)	employment in a performance or advertising job that depicts a child and, on reasonable grounds, requires a child for the depiction;	7 8 9
(b)	employment involving a child playing a musical instrument;	10 11
(c)	employment in a delivery job involving adult supervision that, by its nature, allows the adult to see the child at all reasonable times while the child is undertaking the delivery;	12 13 14 15
(d)	employment that includes a collection for a charity registered under the <i>Collections Act 1966</i> if the employment involves adult supervision that, by its nature, allows the adult to see the child at all reasonable times while the child is collecting.	16 17 18 19 20
	<i>charity</i> see the <i>Collections Act 1966</i> , section 5.	21
	<i>collection</i> see the <i>Collections Act 1966</i> , section 5.	22
‘71F	Limitations about time a child under 15 years may work without rest	23 24
‘(1)	This section applies to a child under 15 years who is lawfully employed under this part.	25 26
‘(2)	The child's employer must not employ the child in employment unless—	27 28
(a)	the child is given a 30 minute rest break after each 3 hours of continuous employment; and	29 30
(b)	each shift from when the child stops working until when the child begins working again is separated by at least 12 hours.	31 32 33

*Industrial Relations (Minimum Employment Age)
Amendment Bill 2004*

Maximum penalty—80 penalty units.

- ‘(3) Subsection (2)(a) does not require the employer to pay the child for the period of the rest break.

‘71G Limitation on children working because work is inappropriate

- ‘(1) A person must not employ any child if the work, on reasonable grounds, is or is likely to be sexually exploitative, oriented or suggestive.

Maximum penalty—

- (a) for a first offence—200 penalty units or 1 year’s imprisonment; and
 - (b) for a second or later offence—400 penalty units or 2 years imprisonment.
- ‘(2) Without limiting subsection (1), the following work is, or is likely to be, sexually exploitative, oriented or suggestive—
- (a) work in or at a place that is a brothel or strip club;
 - (b) work for an escort service or telephone sex provider;
 - (c) work involved with a pornographic film, photograph or Internet site;
 - (d) a performance or advertising job that is suggestive, including, for example, because of clothing the child must wear or because the job or work involves sexual innuendo;
 - (e) work requiring a female child, who has attained 5 years, to be topless.
- ‘(3) It is not a defence to an offence under subsection (1) that the work was otherwise lawful, including, for example, that a brothel was a licensed brothel under the *Prostitution Act 1999*.’.

Clause 4 Insertion of new s 734

After section 733—

*Industrial Relations (Minimum Employment Age)
Amendment Bill 2004*

insert—

**‘734 Transitional provision for Industrial Relations
(Minimum Employment Age) Amendment Act 2004**

‘(1) This section applies to the employment of a child who is 13 years but less than 15 years at the commencement of section 71D² if—

- (a) the employment started before the commencement; and
- (b) the employment agreement provided for, or the employment included, the child working at any time between 10 pm and 6 am at least once a week for the period of employment before the commencement.

‘(2) The person who was employing the child before the commencement (the *employer*) does not commit an offence against section 71D(2)(b) by continuing, after the commencement, to employ the child in a way that is contrary to that provision.

‘(3) However, after the commencement, the employer must not increase the number of hours that a particular child works between 10 pm and 6 am from the number of hours that the child worked before the commencement.

Maximum penalty—80 penalty units.

‘(4) This section expires 1 year after it commences.’.

Clause 5 Amendment of sch 5 (Dictionary)

Schedule 5—

insert—

‘family, for chapter 2, part 7, see section 71B.

family employment, for chapter 2, part 7, see section 71B.

guardian, for chapter 2, part 7, see section 71B.

performance or advertising job, for chapter 2, part 7, see section 71B.’.

² Section 71D (Limitations on nature of work if child is under 15 years)