



THE GUIDE

**to the Employment of Children in the
Victorian Entertainment Industry
Including the Mandatory Code of Practice**

DEPARTMENT OF
ECONOMIC DEVELOPMENT,
JOBS, TRANSPORT
AND RESOURCES



1. INTRODUCTION	5	Hours	32
Welcome to The Guide	7	Maximum number of hours to be worked	32
Using The Guide	7	Table A and Table B of the Code	32
Key sections	7	Rest breaks and meal breaks	34
Purpose of the law	8	Definition of employment hours	34
What is included in employment?	8	Education – part of employment	35
		Variations	36
2. QUICK GUIDE	11	Employment records	36
Using the Quick Guide	13	Education	38
		School exemption process	38
3. UNDERSTANDING THE DETAILS	23	Tutoring	38
Application process for Child Employment Permits	26	Facilities to be provided for schooling	39
Blanket Permits	27	Workplace	40
Supplementary Permits	27	Occupational health and safety (OHS) responsibilities	40
Agents	27	Employer responsibilities	40
Timeframes	27	Food and drink	41
Cost	27	Other facilities	42
Information to be provided with an application	28	Travel home arrangements for children	42
Activities included in employment	28	Contact and medical details form	43
Communication plan	29	Adult themes	44
Parental consent	29	Nudity	44
Working with Children Checks	30	Special requirements for babies	45
Checklist for provision of information for an application for a Child Employment Permit	31	Supervision requirements	46

4. INFORMATION FOR KEY PEOPLE 49

Supervisors 51

Role and responsibilities of a supervisor 51

Parents as supervisors 51

Process for raising concerns 51

Parents and guardians 52

Information to be provided to a parent or guardian 52

Legal responsibilities of a parent or guardian 52

Hours of work 52

Parent attendance at child's workplace 53

Parent as supervisor 53

Records to be maintained 53

Process for raising concerns 53

Schools 54

Exemption process 54

Applications for Child Employment Permits 55

Tutoring information 55

Tutors 56

Tutor qualifications 56

Tutoring facilities 56

Tutoring requirements 57

Nurses 58

Responsibilities of a nurse 58

Agents 58

The role of Child Employment Officers 59

The cost of not complying with your obligations 59

Contact details 60

5. THE CODE 61

Mandatory Code of Practice for the Employment of Children in Entertainment (2014) 63

Introduction 63

Provisions of Code 64

Part 1 – Preliminary 64

Part 2 – Record keeping 65

Part 3 – General duties of employer 66

Part 4 – Hours of work 68

Part 5 – Tutoring 72

Part 6 – Babies 73

Part 7 – Transitional 74



INTRODUCTION

THE PITCH

Get the lowdown on The Guide, what's in it and how to navigate through it, as well as a rundown of the purpose and key features of the child employment legislation.

The Guide to the new Code, published in October 2014, replaces the original version first published in 2005. The Code has been updated to align with the *Child Employment Act 2003* as amended in 2010.

The updated Code responds to industry and stakeholder feedback, reducing the costs of compliance while maintaining protections for children employed in the entertainment industry.

The Guide has been fully re-written to make it easier for employers, parents and guardians to understand. The text of this updated guide has been reduced by around 25 per cent making it easier for employers to access and use.

Welcome to The Guide

The Guide is a resource for employers, parents, school principals and others who need information about the employment of children in the entertainment industry. The Guide outlines the roles and responsibilities of all parties and how to comply with the requirements. Ultimately, The Guide, and the system of rules that are in place, ensures children employed in the entertainment industry are safe and get the most out of the experience.

It's all about creating a safe, supportive and positive working experience for children in entertainment and related industries, while supporting the many businesses and industries that employ them.

Using The Guide

The Guide will be useful for the range of people involved in the employment of children in entertainment including children, parents,* employers, photographers and school principals. Many professionals, such as production assistants on film sets, may need to refer to The Guide regularly. We hope the handy size and convenient tabbed sections will make it easy for you to carry and refer to on set.

Key sections

2 The Quick Guide

This is a good place to start. It gives an overview of most of the information you need to know, with references to other sections of The Guide if you need more detailed information.

3 Understanding the details

This section, as the name suggests, is where you can find out more information about the permit application process, hours a child may work, and the education and workplace requirements.

4 Information for key people

This section is an overview of the many people who support a child working in the entertainment industry. Supervisors, parents, schools, tutors, nurses and agents can read the section relevant to them to understand their role and responsibilities.

While The Guide covers the range of regulation that has application to children in employment, the main focus of The Guide is on the provisions of the Code. It is not intended to cover and explain every requirement, as many of the clauses are self-explanatory.

The information contained within The Guide has been prepared for general information only. It is not a substitute for legal advice. Readers should seek further advice before acting on the information provided, to ensure compliance with the law.

* All references to parents include guardians

Purpose of the law

Everyone wants their working life to be a positive experience, and it's no different for children starting out in the workforce.

The *Child Employment Act 2003 (Vic)* (the Act) came into force in June 2004. It aims to ensure work does not adversely affect a child's education and that the health, safety, moral and material welfare of a child at work in Victoria is protected.

The law recognises that the entertainment industry has different needs and challenges from those of other industries. To balance these unique needs with the rights of children, the law makes special provisions via the *Mandatory Code of Practice for the Employment of Children in Entertainment (2014)* (the Code). The Code was first introduced in November 2005, and various updates have since been made in consultation with industry representatives. The Guide provides an overview of the updated Code effective from 13 October 2014.

The following abbreviations of legislation and regulations are used throughout The Guide:

- The Act – *the Child Employment Act 2003 (Vic)*
- CE Regulations – *Child Employment Regulations 2014 (Vic)*
- The Code – *the Mandatory Code of Practice for the Employment of Children in Entertainment (2014)*
- OHS Act – *Occupational Health and Safety Act 2004 (Vic)*.

What is included in employment?

Employment is defined differently in the Act compared to other legislation and to what might be commonly understood to be 'employment'.

A child engages in employment when he or she performs work:

- under a contract (this includes a standard employment contract or an engagement as a contractor/sub-contractor) whether or not the contract is in writing; or
- under any other arrangement in any business, trade or occupation carried on for profit. This is irrespective of whether the child receives payment or reward for performing the work and regardless of the type of arrangement entered into.

The Act sets out some factors which may be taken into account to assist in determining whether a child is captured 'under any other arrangement'. These include:

- whether the parties intend that the work would constitute employment
- whether the work would commonly attract payment
- whether the primary purpose of the child's work is for another person to derive a profit
- whether the child is subject to the direction of any person who will derive a profit from the child's work.

What is included in the definition of the 'entertainment industry'?

The term 'entertainment' is defined by the Act to include:

- singing, dancing and acting
- playing a musical instrument
- appearing in a radio, television, film or internet program or production, or any similar program or production
- modelling
- appearing in a promotional event or advertising
- working as a photographic subject, whether still or moving
- working in, or in relation to, a circus
- taking part in a performance that is recorded for use in a subsequent entertainment or exhibition
- working in musical theatre, plays, operas or other live entertainment
- performing in a shopping centre
- preparatory activities to the entertainment except:
 - screen tests before the child is booked for the entertainment; and
 - casting walk-ons.

Preparatory activities are employment

Employment for a particular production includes preparatory activities like:

- wardrobe fittings
- rehearsals
- shoots
- promotional activities
- sound recordings and re-shoots.

Activities that are not employment

- castings and screen tests (paid or unpaid)
- participation in a religious, school or sport activity (in some circumstances).

Who is the employer?

Many parties are involved in a child's employment activities including casting agents, producers, photographers, stylists, marketing managers and creative directors, just to name a few, and they are all potential employers.

A person is considered to be an employer of a child if:

- the person engages a child under a contract of service or a contract for services (whether written or unwritten) or another arrangement; or
- the work of the child is for the benefit of that person, whether or not it is also performed for the benefit of another person.

This is the person or entity who is named on the Child Employment Permit as the employer. It should be noted, however, that the Code applies equally to all employers, whether or not they are named on a Child Employment Permit.



QUICK GUIDE

STORYBOARD

Use this section for a quick rundown of the major things you need to know about employing children in the entertainment industry. If you need more detail you can use the references in this section to quickly locate the information you need in The Guide.

Using the Quick Guide

This section provides a summary of the key things you need to know when employing a child in the entertainment industry. You can follow the references to other parts of The Guide for more information. This section is not intended to be comprehensive.

As always, please contact a Child Employment Officer or seek legal advice if you are unsure of your obligations.

The permit system

A Child Employment Permit must be issued prior to a child being employed.

The application process

- ✓ Application submitted online by the employer.
- ✓ Details of the child and others must be entered accurately, as they would appear on their birth certificate or other legal document.
- ✓ Supporting documents (assessment materials) to be included with application (scripts, storyboards, safety reports, etc).
- ✓ Parent must be provided with detailed written information about proposed employment and consent to it in writing.
- ✓ School exemption to be sought and granted in writing if employment during school hours.
- ✓ Permit application assessed by Child Employment Officers.
- ✓ Proposed employment must not adversely affect a child's health, safety, education, moral or material welfare, and must not cause a child to be subject to any form of exploitation.

FOR MORE DETAILS ON THE PERMIT SYSTEM GO TO PAGE 26

The permit system

Forms to be completed or obtained prior to employment commencing

- ✓ Child Employment Permit
- ✓ Parental Consent Form
- ✓ School Exemption Form (if employment during school hours)
- ✓ Child Information Form
- ✓ Record of supervisors' Working with Children Check (WWC Check) number
- ✓ Parent information sheet to parent.

NOTE! A child must be directly and adequately supervised at all times by a supervisor who has a valid Working with Children Check.

FOR MORE DETAILS ON **THE PERMIT SYSTEM** GO TO PAGE 26

Hours of work

Hours of work must be in accordance with Tables A and B and within the maximum weekly combination of education and employment hours and associated provisions.

NOTE! A child cannot work beyond 9pm if they are required to attend school on the following morning.

NOTE! A child cannot work for more than four hours on any day on which they attend school for three hours or more.

Working hours includes:

- ✓ one shift per day
- ✓ 12 hour break between shifts
- ✓ 10 minute rest break every hour
- ✓ 45 minute meal break every five hours but no later than 1pm (does not count as time worked)
- ✓ travel time in excess of one hour each way
- ✓ travel time must be within the allowable starting and finishing times.

Education

includes attendance at school and tutoring (if required).

Week

is defined as seven days, Monday to Sunday, or the employer's usual working week.

Combined education and employment hours must not exceed 40 in any week (less for younger children). The time available for work is up to 40 hours, minus education hours (depending on age).

**EDUCATION
+
WORKING TIME**

MAX 40 HOURS PER WEEK

If employed during school hours, a parent must apply for a school exemption and provide it to the employer. Variations to the hours of work are only available when in the best interest of the child and is not a solution to poor planning or scheduling errors.

Variation applications are required in writing and can be made online at www.business.vic.gov.au/childemployment

FOR MORE DETAILS ON HOURS OF WORK GO TO PAGE 32

Table A and Table B of the Code

Table A

Applies to children working in television, film, radio, internet productions, promotional events, advertising, photographic modelling, shopping centre performances and recorded performances (see full definition on page 32).

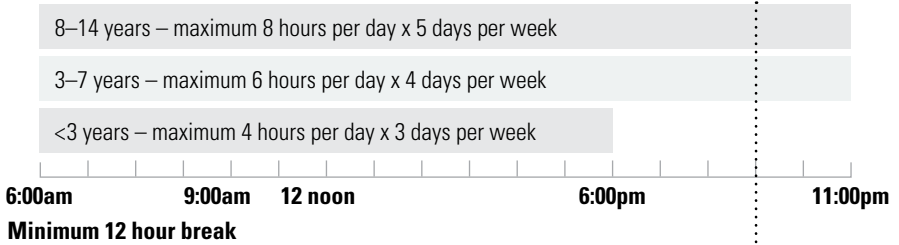
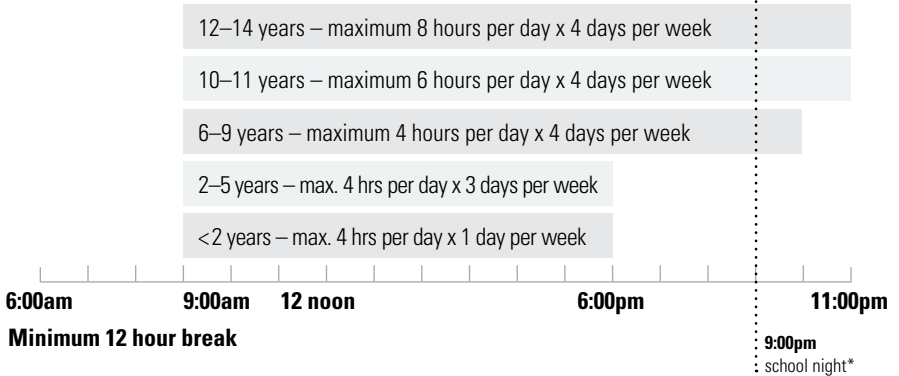


Table B

Applies to children working in musical theatre, plays, operas, other live entertainment or a circus (see full definition on page 32).



*A child cannot work beyond 9pm if they are required to attend school on the morning of the following day.

Educational requirements

If a child misses more than **nine** days of school due to employment, the employer must arrange and provide tutoring.

If the child's school has...	The employer must ensure the child...
Granted an exemption from school	Receives the tutoring hours stipulated by the school
Granted an exemption without a tutoring stipulation	Receives two hours of tutoring per day when they miss more than nine days of school while working for a single employer
Not granted an exemption	Is not employed during school hours as the child is required to attend school

FOR MORE DETAILS ON EDUCATIONAL REQUIREMENTS GO TO PAGE 38

Educational requirements

An **education plan** is developed between the tutor and child's school.

Tutoring is generally 10 hours per week or as specified by the school principal.

The tutor must be suitably **qualified** for the age of the child.

The employer must provide an **exclusive area** for tutoring purposes.

FOR MORE DETAILS ON **EDUCATIONAL REQUIREMENTS** GO TO PAGE 38

The workplace

Under occupational health and safety laws, the employer must provide a safe workplace.

Requirements at the workplace include the employer providing children with:

- ✓ protection from weather which could be harmful
- ✓ suitable rest and recreational facilities, having regard to child's age, needs and the length of the engagement
- ✓ private dressing facilities and clean and accessible toilet and hand washing facilities at every workplace
- ✓ water and other suitable drinks and access to appropriate and sufficient nutritious food.

Special requirements apply for **employment of babies** under 12 weeks (page 45).

A child must not be cast in a role or situation that is **inappropriate** (consider adult themes, language, violence).

A child must not be exposed to scenes or situations that are likely to cause **distress or embarrassment**.

FOR MORE DETAILS ON WORKPLACE GO TO PAGE 40

The workplace

Record keeping

Record keeping requirements apply to **all employers** and include:

Record type	Minimum record keeping duration
Child Employment Permit	Until expiry
Parental Consent Form	12 months
School Exemption Form	12 months
Child Information Form	12 months
Supervisor record	12 months
Time records	12 months
Tutoring records	12 months

A child (12 months or over) **must not perform naked** or with others who are naked.

A baby under 12 months may only perform naked with written **parental consent** and presence throughout.

FOR MORE DETAILS ON **WORKPLACE** GO TO PAGE 40



UNDERSTANDING THE DETAILS

BEHIND THE SCENES

A detailed rundown for employers, parents, schools and others in workplaces where children are employed. This section will help you to implement the requirements of the Code and includes detail on:

- Application process for Child Employment Permits
- Hours
- Education
- Workplace

Understanding the details

This section will help you to implement the requirements of the Code and includes detail on:

- application processes for Child Employment Permits
- hours
- education
- workplace.

Key points:

- As an employer who intends to employ a child, you are responsible for applying for a Child Employment Permit. It is unlawful to employ a child without a permit having been issued for that child and that particular job.
- You are responsible for providing or organising supervision for the entire period of employment. Unless exempt, the employer of children must ensure that Working with Children Checks (WWC Checks) have been conducted and a Notice of Assessment issued prior to allowing a person to supervise a child less than 15 years of age.
- You are also required to obtain written parental consent and a school exemption when relevant before work commences.
- Employers are obliged to provide parents with a summary document explaining the Code.

Application process for Child Employment Permits

This section explains the processes involved in applying for a Child Employment Permit.

Topics covered include:

- who applies for a Child Employment Permit
- the employer on the permit
- Blanket and Supplementary Permits
- agents
- Working with Children Checks
- timeframes
- cost
- information to be provided with an application
- activities included in employment
- communication plan
- checklist for provision of information.

Key points:

- A child under the age of 15 years cannot be employed without a Child Employment Permit issued in the child's name.
- The permit application is to be made by the prospective employer.
 - In addition, once provided with information about the proposed employment, the parent or guardian of a child must complete a Parental Consent Form to consent.
 - The principal of the child's school must also complete a school exemption form if in agreement to the child working during school hours.
 - The permit application is submitted online on the child employment portal to a Child Employment Officer for determination.
 - When completing the online application, details of the child and others must be entered accurately, as they would appear on their birth certificate or other legal document.
 - A parent information sheet must be provided to the parent of the child.

More information:

- A permit application applies to the employment of a child by a particular employer for a specific activity or job. For example, if the child performs in two theatrical productions, with two separate employers, then a separate permit will be required for each one.
- The employer is the person who engages the child under a contract of service (whether written or unwritten) or other arrangement.

The employer may also be the person benefitting from the child's work, whether or not it is also performed for the benefit of another.

In many cases within the entertainment industry there could be a number of parties who could fit this definition.

The employer named on the permit application is required to meet the conditions of the permit. This does not however negate the responsibilities of the other parties to ensure the requirements of the Code are met.

EXAMPLE

A child is employed to appear in a television commercial. The advertising agency, which arranged to engage the child, was named as the employer on the application for the Child Employment Permit. The person identified as company representative on the application was the person who had sufficient knowledge to provide Child Employment Officers with details of the action and the environment. This person had sufficient authority to ensure legal requirements were met on the day. During the filming of the commercial, there were other parties involved, including the production company and the client. Both of these other parties also carry responsibilities under the Code as employers.

Blanket Permits

What are Blanket Permits?

An employer in the entertainment industry may wish to engage a particular child for multiple engagements over a 12 to 24 month period.

If the proposed employment relates to the same form of entertainment or the same type of work (for example, a photography studio working with the same child throughout the year across several different catalogues) the employer may apply for a Blanket Permit to cover multiple occasions of employment within a 12 month period. If the proposed work is going to occur during school hours, each engagement must fit the following criteria:

- maximum of two hours duration; and
- maximum of eight engagements in each school term.

Once a Blanket Permit is in place, including the corresponding parental consent and school exemption, the employer simply applies for a Supplementary Permit prior to each proposed engagement.

Supplementary Permits

A Supplementary Permit is to be used when a Blanket Permit has been issued for a fixed period and allows for additional information to be provided about each individual instance of employment, prior to the engagement commencing.

This application for a Supplementary Permit must be submitted with sufficient time for assessment by a Child Employment Officer, and issued prior to a child commencing employment.

Agents

What is the role of an agent?

In the entertainment industry, children often have an agent to arrange their employment. The agent is not the employer for the purpose of child employment regulation. Rather, the agent acts as a representative of the child.

In some cases, an agent may assist in the permit application process through the transfer of information and documentation.

Timeframes

How long does it take for a permit to be granted?

This varies, depending on the complexity of the application. If the application is fully completed and error-free, there are not large numbers of children involved, it is not a high risk activity/environment and no special investigations need to be undertaken, permits can usually be granted with a few days' notice.

Cost

What will it cost me to comply with these requirements?

An application for a Child Employment Permit is free. The only cost is for the WWC Check. For current fees:

- check the Department of Justice website
- contact the WWC Check information line on 1300 652 879
- contact a participating Australia Post outlet.

Information to be provided with an application

What information do I have to provide with a permit application?

The type of information you are required to provide in support of an application for a Child Employment Permit will vary considerably depending on the employment being proposed. In assessing an application for a permit, a Child Employment Officer must be satisfied that the health, safety, education, moral and material welfare of the child will not suffer as a result of the employment. Examples of information (known as assessment material) that must be provided if relevant to the particular job include:

- scripts
- storyboards
- details of the product being advertised
- details of the action involved in the production
- details of what will be required of the child
- details of the environment in which the work is to be performed
- details of any props or equipment to be used
- identification of any risks and actions taken to mitigate the risk
- safety reports
- details of other parties involved in the production, such as:
 - client
 - advertising agency
 - production company
 - casting agent.

In relation to safety reports, there are some smaller productions that do not routinely engage safety supervisors to prepare a safety report. If, in assessing the work or the environment, a Child Employment Officer has concerns about a health and safety matter, you may be requested to provide a risk assessment. If the Child Employment Officer is still not satisfied, you may be required to have a safety report prepared. Alternatively, you may be prohibited from employing the child to perform that particular activity or within that particular environment.

Activities included in employment

What activities are required to be covered by a permit?

Casting walk-ons, and screen tests (call-backs) are not considered employment for purposes of the Act, and a Child Employment Permit is not required for these activities. The exception to this is if the result of the screen test could be used by the employer, for example, a child auditions for a television talent show and the footage from the audition is used as part of the broadcast or content on any media channel.

All other activities, including the following, are considered to be employment and therefore a permit is required to cover these activities:

- wardrobe fittings
- rehearsals
- shoots
- promotional activities
- sound recording sessions
- re-shoots.

Communication plan

I often don't cast children until very late in the pre-production process. How can I be sure that I will get permits in time?

The casting of the talent is often one of the very last things that is considered and finalised in the pre-production phase. If you are planning on employing 20 extras for a production, your chances of having the applications accepted and the permits issued in time will be greatly improved if you have already sent the script, safety report and schedule well ahead of time.

The key to success is ongoing communication with Child Employment Officers from the start of the project. This is likely to be many weeks, or sometimes months, prior to the production commencing. As soon as it is known that children are to be employed, whatever information is available at that stage should be provided to Child Employment Officers.

What do I put on the application form if the date of the shoot could be moved depending on the weather?

If the location means that the shoot is weather-dependent, you can put a range of potential dates to allow for a weather hold. In all cases you are required to notify a Child Employment Officer of the specific and actual dates and times of the employment of the child.

Can work start when a permit has been applied for but before it is issued?

No. This would be a breach of the Act. Work cannot commence before a permit has been issued. You must have a copy of the permit at the workplace at all times that the child is working.

Can permits be applied for and granted after work has been performed?

No. This would be a breach of the Act. Work cannot take place unless a permit has been issued. Permits cannot be issued retrospectively.

Parental consent

Prior to a child starting work an employer must ensure they have received written consent from the child's parent. Under the law, employers must provide parents with their details including:

- contact information
- company representative
- details of the proposed employment
- the role and duties that the child will perform
- the hours of work
- the workplace.

A parental consent form is auto-populated as part of the online permit application. The option to print it is available on the final screen of the online submission process on the child employment portal. Once printed it is to be provided to the parent for their information so they can consider and then provide written consent.

Working with Children Checks

Key points:

- A Working with Children Check (WWC Check) is not the same thing as a Child Employment Permit. They are separate requirements.
- Anyone who directly supervises a child is required to hold a current WWC Check. It must be an employee 'E' card and not a volunteer 'V' card.
- Parents, guardians and extended family members are exempt from the WWC Check, as are registered Victorian teachers and Victoria Police officers.
- Some employers have chosen to have an entire crew undergo the WWC Check which provides flexibility in who can supervise a child.
- An employer of a child must ensure that a child is directly and adequately supervised at all times. A supervisor should be provided with appropriate training. In particular, the supervisor should be trained to recognise health and safety hazards including teasing, bullying and harassment.

More information:

- It should be noted that other exemptions which appear in the *Working with Children Act* (WWC Act) may not apply in the case of supervisors of children under the Act. An example of this is a supervisor of a child under 15 years who undertakes work experience as part of their secondary school program.
 - The exemption stated in the WWC Act is not an exemption under the CE Act. If the child is under 15 years, a WWC Check will be necessary. Check with a Child Employment Officer if you are unsure.

CASE STUDY

Twelve year old Matt, through his parents, responds to a casting call for a role in a feature film. He is asked to perform a quick two minute scene and is offered the role. He is told the scene will involve him hanging out with a group of friends, and “just mucking around”, as teenagers do. Matt and his mother are very excited. They are given a contract and provided with the details for the shoot. The big day comes and Matt arrives at the location, prepared to play his role. Hair, make up and wardrobe are all done and he is introduced to fellow cast members. It soon becomes apparent that the scene involves the portrayal of a group of teenagers drinking alcohol and becoming drunk and aggressive. Matt’s mother is not at all comfortable with her son playing this role. She had suffered at the hands of an abusive, alcoholic father for most of her childhood and had very strong views about alcohol consumption. She demanded to see the director and demanded that her son not be portrayed in that way. Despite being sympathetic, this was the scene for which they required her son. The mother advised that she would be taking her son home.

If the employer had been clear and transparent and had fully complied with the requirement to provide the parent with sufficient information about the role then the mother could have made an informed decision about her son’s involvement during the casting process. Instead everyone wasted a great deal of time, and the employer will need to abandon the shoot until it can cast another person for the role.

Checklist for provision of information for an application for a Child Employment Permit

PRE-PRODUCTION –

STAGE 1 (1–6 months prior to shoot)

Information available at this stage to be provided:

- script, storyboard, layout or scenario
- details of potential supervisors
- if Working with Children Checks (WWC Checks) are not available for all people who are to be appointed as supervisors (except for parents, guardians and extended family members), arrange for applications to be made, including details of the employer
- details of the nature of the work including talent age groups; number of children; what is required of the children in the script; size of production; whether a safety report is required; how many talent are lead, featured or extras
- schedule draft including proposed dates for casting walk-ons, screen tests (call-backs), wardrobe fittings, rehearsals, shoots and sound recording sessions.

PRODUCTION COMMENCES –

STAGE 2 (1–4 weeks prior to shoot)

- details of other parties including photographer, production company, casting agent and sound studios
- details of the actual shoot including location, shoot date and proposed number of hours for each child
- safety report, names and ages of lead talent if available at this stage
- actual times for wardrobe fittings.

SHOOT DETAILS CONFIRMED –

STAGE 3 (4–7 days prior to shoot)

- confirmation of all other details previously provided
- online applications for Child Employment Permit
- actual call times and hours of work for each child
- confirmation of locations
- safety report (if not provided earlier)
- travel arrangements for children.

FURTHER WORK – STAGE 4

- call sheet with specific days and times
- if weather interrupted the shoot and/or further shooting is to be done (which was already provided for in the permit), notify Child Employment Officers
- if alternative dates were not provided in the permit, discuss changes or additional days with a Child Employment Officer.

ACTIVITIES THAT CONSTITUTE EMPLOYMENT

The following activities are considered employment for the purposes of the Act and a Child Employment Permit is required for these activities:

- wardrobe fittings
- rehearsals
- shoots
- sound recording sessions
- re-shoots
- publicity, promotion and media events
- online content including social media.

Activities not considered to be employment and therefore a permit is not required to cover them, include:

- casting walk-ons
- screen tests (call-backs).

CONTACT DETAILS

**Child Employment Officer
Employment Information and Compliance
Department of State Development,
Business and Innovation
GPO Box 4509
Melbourne Vic 3001**

Tel: 1800 287 287

www.business.vic.gov.au/childemployment

Fax: 03 9651 9703

Hours

This section sets out the requirements concerning hours of work of children in the entertainment industry. These requirements are prescribed by the Code. Details include:

- maximum number of hours to be worked
- Table A and Table B of the Code
- rest breaks and meal breaks
- definition of employment hours
- education – part of employment
- variations
- employment records.

Regulations are in place to govern the hours a child can work to protect their welfare.

In most cases, employers do not choose to employ children in excess of the hours prescribed by the Code, therefore the rules have little effect on their operations. If there is a particular need, you do have an opportunity to make a written application to a Child Employment Officer to have some of the hours requirements varied. The assessment of the application will require that the health, safety, education, moral and material welfare of the child will not suffer as a result of the variation and that the proposed change is in the best interests of the child.

Maximum number of hours to be worked

Under the provisions of the Code, how many hours per week can a child be employed?

The majority of children in the entertainment industry are employed for short-term engagements – many for just a couple of hours to model for stills photography or for one or two days for a television commercial. Hours of work are usually not of concern in these instances. For a small number of children, however, an engagement can be a much bigger commitment. It is especially in these cases that consideration needs to be given to the hours and how they are arranged, together with the educational needs of the child.

Part 4 of the Code sets out requirements relating to employment hours a child can be employed to work. Table A and Table B of the Code contain:

- the maximum daily hours of employment
- the maximum days of employment per week
- the maximum number of consecutive days of employment
- the hours within which the employment can occur.

These are all determined in accordance with the age of the child and are discussed in more detail later in this section.

Table A and Table B of the Code

Table A applies to children undertaking the following employment activity:

- working in radio, television, film or internet program or production
- appearing in promotional events or advertising
- working as a photographic subject (still or moving)
- modelling
- performing in a shopping centre
- taking part in a performance that is recorded for use in a subsequent entertainment or exhibition
- taking part in preparatory activities to these forms of entertainment
- any form of other entertainment not covered by Table B.

Table B applies to children working in:

- musical theatre
- plays
- operas
- other live entertainment
- a circus, or in relation to a circus; and
- taking part in preparatory activities associated with these forms of entertainment.

Table A and Table B of the Code

Table A

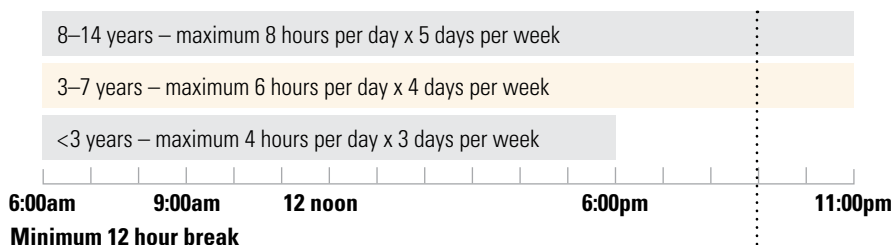
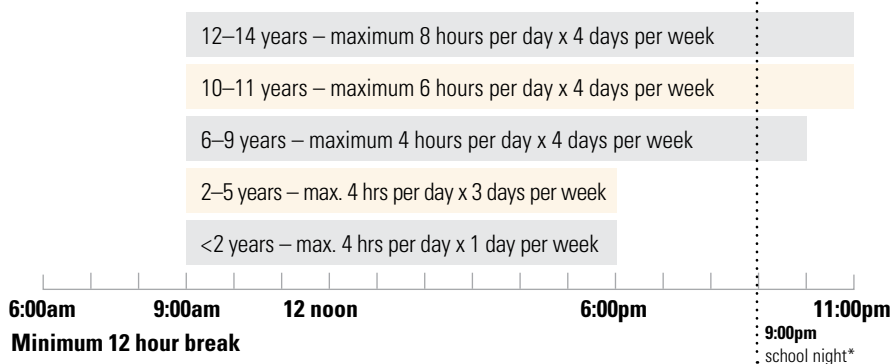


Table B



*A child cannot work beyond 9pm if they are required to attend school on the morning of the following day.

HOURS REQUIREMENTS – KEY POINTS

Hours in accord with Table A and Table B with overall maximum of 40 hours per week including hours required to fulfil educational requirements:

- one shift per day
- 10 minute rest break every hour
- 45 minute meal break every five hours but no later than 1pm (not counted as time worked)
- travelling time in excess of one hour each way counted as time worked
- travelling time must be within the allowable starting and finishing times
- maximum of four hours work on a day in which the child attends at least half a day at school
- no later than a 9 pm finish if the child is required to attend school the following morning
- a week is defined as seven days, Monday to Sunday or, alternatively, the standard working week arrangement applied by the employer.

HOURS TO FULFIL EDUCATIONAL REQUIREMENTS – KEY POINTS

Hours in accord with Table A and Table B with overall maximum of 40 hours per week including hours required to fulfil educational requirements:

- granted exemption from school – tutoring hours stipulated by school
- granted exemption but no tutoring stipulation by school – over nine days absence from school with one employer, two hours per day tutoring
- no exemption granted from school – attend school full time (counted as four hours per day of education for the purpose of calculating combined education and employment).

Rest breaks and meal breaks

What rest and meal breaks do I have to provide to a child?

Time worked	Rest period	Requirements
Each hour	10 minutes' rest	Child may remain in the workplace, but they must be a genuine break from the activity they are engaged in.
Every 5 hours	45 minutes for a meal break	Meal break must not be later than 1pm if the child started work before 10am. Must be free time, not for rehearsal, learning lines or education. This time does not count towards the child's employment hours.
Between shifts	Minimum 12 hour break between shifts	This refers to the time between ending work on one day and starting work the following day regardless of whether it is with the same or another employer. Parents must advise an employer if their child has not had a 12-hour break since finishing work the previous day.

CASE STUDY

Chloe works for six hours on a particular day. She works in the afternoon and evening as darkness is required for the particular scene being shot. She finishes at 10pm. On the following day Chloe is not permitted to commence employment until at least 10am, to allow for a 12 hour break. Chloe's parent should advise a prospective employer of her lack of availability prior to 10am.

Definition of employment hours

Employment hours

Activities included in the calculation of employment hours:

- travelling time to and from work in excess of one hour each way
- all time at the workplace, if employer is transporting child
- hair and make up
- wardrobe calls.

Education – part of employment

Is the time spent on education counted as the combined employment and education hours?

Yes. A child may only take part in a maximum 40 hours per week of combined employment and education (depending on the age of the child). Once the education hours requirement has been determined, the remaining hours are what a child can work in that week, ensuring that the daily maximums are also complied with. The education hours are determined by the extent of the exemption granted by the school, school attendance and the tutoring requirements.

More information:

- Please refer to Table A and Table B in the Code to assist you to determine how many hours per day and engagements per week you can engage a child, according to their age.
- You need to be aware that if a child is exempted from school (as a result of missing more than nine days of school) the obligation for tutoring will apply. If the child then attends school one or two days per week, despite the exemption, this does not reduce the obligation to provide 10 hours tutoring per week. Each day at school counts as four hours education for the purpose of the combined employment/education maximum weekly hours.
- If a child is not absent from school and therefore there is no exemption, the maximum weekly hours available for work are 20 hours, subject to the maximum daily hours and days per week in Table A and B.

CASE STUDY

Jerry is a 13 year old who is cast for a role in a feature film. Jerry's parents apply for an exemption from his school. The exemption is granted in full on condition that Jerry undertakes 1.5 hours of tutoring per day, with a focus on maths and literacy. Jerry can therefore work on the film for 32.5 hours per week.

Education hours

Tutoring	7.5 hours per week
Schooling	Nil

Employment hours

TABLE A and clause 22 40 hours per week
Employment hours (40) less education hours (7.5)
= **TOTAL WORK
HOURS AVAILABLE 32.5 hours per week**

*a school day is calculated as 4 hours for the purposes of calculating combined education and employment hours.

** the work hours do not need to have the education hours deducted in this example as they will not exceed 40 as a combined total.

CASE STUDY

Amy is seven years of age and is cast in a main role of a live theatre production of *Alice in Wonderland*. The rehearsal period will run for approximately four weeks and her school exemption requires that she do one hour of tutoring each day that she is absent from school which will be four days per week. Amy is able to work 12 hours per week on the theatre production.

Education hours

Tutoring	4 hours per week
Schooling	4 hours per week*
TOTAL	8 hours per week

Employment hours

TABLE B –
No. of days per week 4 days employment
in a week
No. of hours per day 4 hours
= **16 hours per week**
Employment hours (16) plus education hours (8)
= **TOTAL WORK
HOURS AVAILABLE 16 hours per week****

Variations

Can I apply for a variation to the hours requirements?

Key points:

- If you are considering an application, you must first seek approval from the parent of the child.
- You will need to make a written application outlining the reason for a proposed variation in hours for a child to work (this is explained in Clause 26 of the Code).
- As the Code has been developed to protect the interests of children, the application will need to explain how the variation would be in the best interests of the child.
- Please provide sufficient time for a Child Employment Officer to assess the merits of the application.
- The application for variation could relate to a single instance or could apply to a production on an ongoing basis.

More information:

- If approval to vary working hours is granted, it will be in writing and may contain conditions. It is important that you not proceed with employing the child until you have received a written approval.
- Approval will not be granted retrospectively under any circumstances.
- A copy of the written approval must be held with other employment records.
- In the ordinary course of events an application for a variation will only be considered during normal business hours. If there is an urgent need for a variation to be considered outside business hours, you should ring the emergency line on 03 9651 9831.
- Variations allowable under the Code are restricted to clauses 22–25.

Employment records

You must keep the following records:

- the times, hours and dates that the child worked
- the location at which the child worked on each occasion
- the person/s who supervised the child in each instance and their WWC Check number
- the times and hours the child received tutoring
- the subject matter covered by the tutoring
- the Child Employment Permit (this must be accessible at the workplace of the child)
- the Parental Consent Form
- the School Exemption Form (if applicable).

These records must be maintained for 12 months from the last entry with the exception of the permit which must be maintained until its expiry.

Information needed before employing a child:

- names and contact details (residential address and all relevant telephone numbers) of the child and parent or guardian
- contact details for any other person authorised to consent to medical treatment for the child
- consent for employer to seek or administer medical treatment as appropriate
- name and contact details of who is to be notified in case of injury or illness
- allergies, medical conditions and any dietary restrictions of the child
- name and contact details of person authorised to collect the child.

More information:

- A Child Employment Information Form template is available at www.business.vic.gov.au/childemployment to help employers collect the above information. This form is not mandatory to use, and you may choose to keep the specified information in another form.
- The *Commonwealth Fair Work Act 2009* and awards and many agreements made under this Act prescribe record-keeping requirements, which in most cases include many of the components specified above.
- It's a good idea to create a format for your record-keeping that meets all of your obligations rather than maintaining a number of separate records.
- A copy of the Child Employment Permit must be accessible at the child's workplace and maintained as a record until it expires.

Education

This section explains the educational needs of children. It details the method of determining hours of schooling as well as the requirements for tutoring. Topics covered include:

- ✓ determination of schooling hours
- ✓ school exemption process
- ✓ provision of tutors
- ✓ facilities to be provided for schooling.

Key points:

- The education hours required for a child are determined according to the exemption from school attendance granted by the school and any stipulation prescribed as a condition of the exemption.
- In the absence of an exemption, a day of attendance at school is counted as four hours for the purposes of calculating combined employment and education hours.

School exemption process

- If the child attends a Victorian school, the child's parent or guardian is required to apply for an exemption for the child to be absent from school when the employment is to take place during school hours.
 - This is a separate process to the application for a Child Employment Permit. (This is available to print on the final screen of the online permit submission process on the child employment portal or on the website www.business.vic.gov.au/childemployment).
- In considering the exemption application, the child's school principal will consider the educational needs of the child and may propose tutoring requirements. This could range from no tutoring requirement at all (perhaps in a case where the child was going to miss a minimal amount of schooling) to a requirement that a child complete a fixed number of hours of tutoring each week. It might also include specifics about subjects to be covered.

- The duration of proposed absences and timeframes for employment activity will be considered in determining an application for exemption. (Most applications in the entertainment industry arise with short notice, relate to time-critical employment activity and involve short periods of absence from school attendance).

Tutoring

A tutor is used:

- Where a child has been exempted from attending school, his or her school may specify the number of hours of tutoring they should receive. In this case, the employer must engage a tutor to deliver to the child the specified number of hours of education.
- Where a child has been exempted from attending school without the school having specified the number of hours of tutoring the employer must engage a tutor once the child has been absent from school for the equivalent of nine days in any one school term.
 - The tutor must be engaged to deliver to the child a minimum of two hours of tutoring per day (or an average of two hours of education per day over five days or four weeks).
- Where a child has not been exempted from attending school, the child is permitted to work a maximum number of hours based on their age as shown in Table A or B, less four hours per day for attendance at school.

Exemption process	Schooling requirement
School exemption granted – conditional	as conditions specify
School exemption granted – unconditional	after 9 days of school missed in a term, 2 hours per day
No exemption	full-time attendance at school

More information

- You must engage a tutor if there is a tutoring requirement set by the school or if there is no requirement and the child will be absent from school for more than nine days in a term.
- Once the requirement for tutoring has commenced the tutoring must continue until the employment ceases.
- The tutor must be a registered teacher and be appropriately qualified.
- Tutoring will usually take place during normal working or school hours and be done by the tutor engaged by the employer. However, in some cases, the employer and the child's parent or guardian may agree that tutoring will take place outside of working hours. The child's parent or guardian may then engage the tutor.

It should be noted that these hours are still counted toward the combined employment and education hours for the child.

If such an arrangement is made, the tutor may be paid by the parent or guardian, who will be reimbursed by the employer.

- The employer is only obliged to reimburse the parent or guardian for the tutoring hours required as specified in the Code.

CASE STUDY

A children's television series involves eight children on a long-term basis. They have all been set tutoring requirements by their schools and a tutor is to be engaged to meet those requirements. Six of the children are aged between 12 and 14 years and two of them are six year olds. The tutor's qualifications would need to be appropriate to the educational level of the children involved.

Facilities to be provided for schooling

- The Code requires employers to provide the tutor with the opportunity to develop an education plan in consultation with the child's school. This normally involves the tutor being allocated time to visit the child's school and meet with the class teacher or school principal and develop an education plan to meet the needs of the child.
- There is usually ongoing liaison during the course of the employment to monitor progress and vary the plan as required.
- An employer must provide dedicated facilities of sufficient size and quality for the child's education. This means the tutor and the children have exclusive access to enable appropriate education to be provided without distraction.
- The facility dedicated to the child's education must have the necessary equipment and space for the number of children who will use it at any time. For example, a small trailer on location would be insufficient for a group of 10 children who all had daily tutoring requirements. Similarly, a corner of a green room set up with a couple of desks and chairs would not meet the 'dedicated facility' requirement.
- Generally, the facility should be a 'no-go zone' for all production staff other than the children and tutor.

Workplace

This section of The Guide details many of the provisions of the Code that relate to the workplace and conditions that must be met. Topics covered include:

- ✓ occupational health and safety responsibilities
- ✓ employer to attend the workplace
- ✓ food and drink
- ✓ other facilities
- ✓ protection from the elements
- ✓ travel home arrangements for children
- ✓ contact and medical details form
- ✓ adult themes
- ✓ nudity
- ✓ special requirements for babies
- ✓ supervision requirements.

Occupational health and safety (OHS) responsibilities

Key points:

- Everyone has a responsibility to provide a safe workplace, regardless of whether or not children are present. This includes employers, occupiers, sub-contractors and employees.
- The *Occupational Health and Safety Act 2004* (Vic) (OHS Act) requires that employers must, so far as is reasonably practicable, provide and maintain a working environment that is safe and without risks to health to both employees and non-employees. This includes children.
- When deciding what is reasonably practicable to maintain a healthy and safe workplace, you should identify hazards and manage risks. An assessment of occupational health and safety issues in your workplace should take into account the presence of young children, the work environment and their physical and mental capabilities.

- Within the entertainment industry, a safety consultant is often engaged to conduct the risk assessment. Irrespective of who completes the report, a copy should always be provided to Child Employment Officers as part of the assessment material to accompany an application for a Child Employment Permit.
- You should be aware that as the employer, you remain responsible for the risk assessment and risk controls.
- A safety consultant is often used on sets where there is a greater than usual risk involved, such as a scene involving water or stunts.
- In addition, the Code sets out some special provisions that take into account both the specifics of the industry and the physical and emotional maturity of children under the age of 15 years.

More information:

- The responsibilities to provide a safe workplace are outlined in the *Occupational Health and Safety Act 2004* (Vic) (OHS Act) and its Regulations (OHS Regulations).

Employer responsibilities

- If the employer or company representative named on the permit is not in attendance at the workplace of the child, this does not change the employer's obligations under the permit.
- If you are named as the employer or company representative on the permit, but are not able to attend the workplace, there should be another person at the workplace who has delegated authority to carry out your responsibilities. This person would need to be fully briefed on the role and the details of the permit.
- Employers should note that child supervisors who are not the named employer representative on the permit do not assume the other responsibilities of the employer.

What are some of the responsibilities of an employer?

The employer has a range of responsibilities under the Act and CE Regulations, as well as the Code. Here are some examples.

An employer must:

- employ a child in accordance with a permit
- in the application process, provide accurate details and provide any further information requested by a Child Employment Officer
- comply with any special conditions of the permit
- ensure a child is engaged in light work only
- not allow a child to work if known to be ill or unfit for work
- ensure the child is under the direct supervision of an appointed supervisor with a valid WWC Check
- ensure the supervisor is not given additional duties that compromise his or her ability to provide direct supervision
- comply with all of the hours requirements and rest break provisions stipulated under the Code
- keep records in relation to the dates, hours and locations worked by a child
- obtain contact details and medical information (as specified by the Code) prior to a child working
- provide facilities as specified by the Code
- provide tutoring as specified by the Code
- facilitate contact between the child and parent or guardian when requested
- allow the child's parent or guardian to be at the workplace when the child is present
- ensure all conditions of the permit are observed.

Food and drink

What food and drink am I required to provide?

You must ensure that water and other suitable drinks are available at all times to a child at the workplace. You should also ensure the child has access to more substantial (nutritious) food at reasonable hours. Always consider the child's age, taste, culture and dietary restrictions.

It is obviously essential to know if a child has a medical condition or has food allergies of any description. This provision reinforces the need for you to meet your obligations under Clause 7 of the Code, regarding the collection of personal information in the form of medical details for the child.

EXAMPLE

You may find sushi delicious, as might many of the other adult cast and crew, but many six year olds would not. On the other hand, many six year olds would be happy to feast on a bowl of lollypops for lunch, but this would not be the best option nutritionally. A hot prepared meal or some healthy sandwiches would be better.

Other facilities

Key things to consider:

- You must ensure that the following facilities are available at the workplace:
 - dedicated space for the child’s tuition (page 39)
 - recreational materials and rest facilities
 - dressing room facilities that enable the child to dress and undress in private
 - clean and accessible toilets and hand-washing and hand-drying facilities.
- Facilities should be appropriate to the age and needs of each child who is to use them. The length of the engagement of the child will be a consideration in determining appropriate materials. It is your responsibility to ensure that a child, while at work, is adequately clothed and protected from the elements. This includes ensuring that the temperature in the workplace is comfortable. If a child is working outdoors you must ensure the child is adequately protected from the sun, wind, rain, dust and any other conditions which could be harmful.

EXAMPLE

If you are a photographer shooting a swimwear catalogue at a beach location in winter, you will need to consider arranging shelter or ensuring the location has shelter and also ensure that the child is kept warm throughout the shoot. Conversely, in summer, you need to ensure a child involved in such a shoot is wearing appropriate sunscreen, is kept well hydrated and protected from the sun.

Travel home arrangements for children

Do I have to arrange travel home for children?

Age of the child	Employer’s obligation
A child under 13 years	You must ensure that any child under 13 years is collected or taken home after finishing work by a parent or guardian or other person listed on the Child Information Form by the parent or guardian to take the child home.
A child of 13 years or over	The same requirement applies as for a child under 13 years unless the following criteria can be met, in which case the child may travel home independently. The criteria are: <ul style="list-style-type: none">• the child lives within 10km of the work location and will reach home within daylight or prior to 6pm (whichever is earlier); or• the parent of the child has provided the employer with written consent allowing the child to travel home alone, so long as the child reaches home by 8.30pm.

It is advisable to discuss travel arrangements with parents or guardians prior to the day of the proposed employment in order to avoid any confusion on the day. This is particularly the case if the parent or guardian is not going to remain with the child during the employment period.

Contact and medical details form

What do I need to know about medical issues?

- You must not allow a child to work whom you know to be ill or unfit for work.
- If a child becomes sick or is injured while at work you must immediately notify the child's parents or guardian or another person who is nominated by the parent or guardian if the child's parent is not contactable.
- The Code requires you to obtain contact and medical details from the child's parent prior to employment commencing. A model Child Employment Information Form can be downloaded from www.business.vic.gov.au/childemployment or can be requested from a Child Employment Officer.
This form should be held at the immediate workplace of the child together with the Child Employment Permit so that it can be accessed in an emergency.
- You should also be aware of your occupational health and safety duty to report work injuries to the Victorian WorkCover Authority.
- The child's parent must advise you what is to be done with the Child Information Form when the required retention period has elapsed. The options are: return to parent, destroy or retain in a secure manner in your files in anticipation of future employment of the child. These details are contained in the model Child Information Form.
- You should ensure that the child's parent or guardian is provided with your contact details and those of the child's direct supervisor for emergency contact purposes, for example to notify you if the child is unable to attend work.

Are there any requirements about parental contact for the child?

- In most cases it is beneficial and practical to have a parent or guardian present while a child works.
- The Code requires you to allow a parent or guardian to be present at a workplace at all times that the child is there.
- You may exclude a parent or guardian from a particular area or from direct contact with the child for a period only when necessary to ensure that the production is not disrupted or to protect the health and safety of any person present.
- You should be aware that if a child requests contact with the parent or guardian or some other person you must do whatever is necessary to ensure that such contact is made.
- If a child's employment necessitates the child being away from home overnight, and the parent is to accompany the child, you are required to provide appropriate accommodation for the child and the parent or guardian of the child.

Adult themes

Can a child be involved in a production or role involving adult themes?

- You must ensure that no child is cast in a role or situation that is inappropriate, having regard to their age, maturity, emotional or psychological development and sensitivity.
- If you have any queries about a particular casting or scene you should seek advice from a Child Employment Officer. In some instances you may be directed to brief and debrief a child in relation to the content of a particular scene in addition to ongoing monitoring.
- You are not permitted to expose a child to a scene or situation that is likely to cause them embarrassment or distress.
- You must not make a child distressed intentionally in order to get a more realistic depiction of a particular emotion or reaction.

EXAMPLE

If a scene requires a child to scream, the child should be coached to do this. The scream should not be created by making the child fearful.

Nudity

You are not permitted to employ a child in any situation in which they or any other person in their presence is naked unless:

- the child is under 12 months old; and
- you have the written consent of their parent; and
- the parent will be present for the whole period that the child or the other person is naked.

Special requirements for babies

What needs to be done if I want to engage a baby?

Engaging a baby for 1 hour or less:

- the parent or guardian must be present at all times; and
- you must have received advice from the parent that the baby:
 - was delivered at full term and in good health; and
 - weighed at least 3kg at birth; and
 - has no post-natal problems; and
 - is feeding successfully; and
 - has had satisfactory weight gain from birth.

While you are not required to include this information in an application for a Child Employment Permit it is in your interest to request that the parent confirm these details for you in writing.

Engaging a baby for more than 1 hour:

- a registered nurse, registered midwife or registered maternal and child health nurse must be present for the whole time; and
- the parent or guardian must be present for the whole time; and
- the nurse must advise you that:
 - the baby is fit for employment; and
 - the environment in which employment is to take place is unlikely to cause the baby distress; and
 - you must follow all advice of the nurse in relation to the welfare of the baby.

A nurse may consider getting a certificate from a general practitioner declaring the baby fit for the proposed employment.

As an employer, you are advised to receive this advice from the nurse in writing, so that you can later confirm that you did receive it. Again there is no requirement to include this with the application for the permit, but you may need to establish it at a later date.

Some other requirements include:

- a baby must not be exposed to harmful lighting
- no make-up is to be applied to a baby unless it is non-irritating and uncontaminated
- a person who is known to have an infectious condition must not come into contact with a baby.

What might be the environmental considerations relating to the engagement of babies?

In addition to meeting the requirements above you should also consider other issues when engaging babies. These might include:

- restricting the handling of a baby from one person to another
- ensuring there is an appropriate facility provided for breastfeeding or storage of expressed or formula milk
- ensuring there are appropriate facilities for nappy-changing
- ensuring there are appropriate areas for the baby to sleep
- controlling noise levels.

Supervision requirements

To what extent do I need to supervise children?

The first thing the Code stipulates about your obligations in relation to supervision is that each child is to be provided with direct and adequate supervision. When establishing what might be considered adequate, consider:

- the age of the child
- the sex of the child
- the degree of maturity of the child; and
- the number of children in employment at one time.

The *Education and Care Services National Regulations* sets out staff to child ratios in a child care service. While these do not apply in a child employment scenario, they may be referred to for guidance.

EXAMPLE

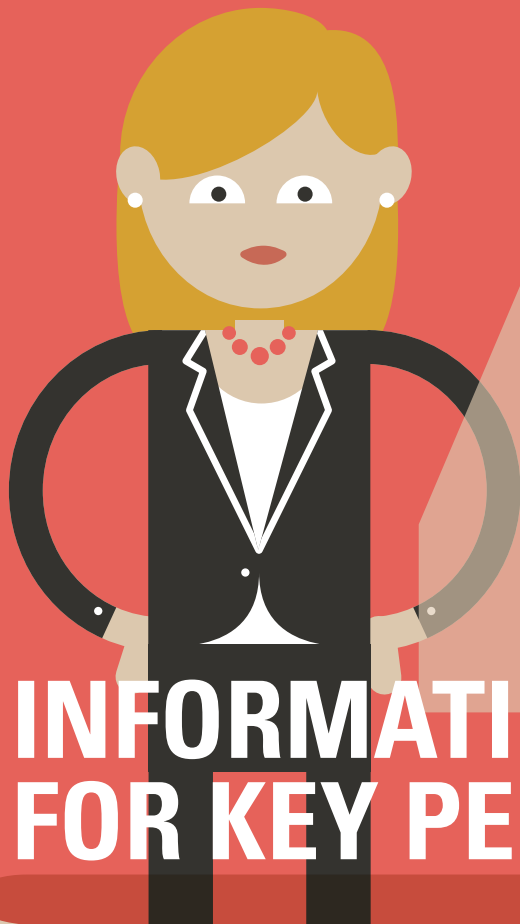
Suppose a group of 10 children were required as extras in a film production. If the children were three year olds, one supervisor would be unable to provide adequate supervision to a group of this size, given the amount of attention required by children of this age. If, however, the children were 13 years old, then one supervisor may be able to directly supervise this group.

Further important supervision requirements:

- You can only give other tasks to a supervisor to the extent that they do not compromise the supervisor's ability to provide direct supervision to a child.
- The only people who can directly supervise children are those appointed by the employer to supervise and who have a valid WWC Check.
- You should record the WWC Check number of all supervision staff.
- Your employees with a WWC Check are legally required to notify the Department of Justice that you are their employer so that communications can take place with you, if necessary.
- A supervisor who is a parent or extended family member is exempt from the requirement for a WWC Check.
- Direct supervision involves physical proximity to a child and therefore the capacity to oversee and control what the child is doing.
- A parent can be a supervisor, as the table at right indicates.
 - It needs to be understood that the parent is not taking on your responsibilities as an employer but rather accepts the role at the workplace of providing direct supervision of his or her child.
 - A parent cannot be compelled to take this role; it is the parent's choice. If the parent is not available then you must appoint another appropriate person (as prescribed).
 - A parent supervisor should be clearly briefed on his or her role and responsibilities in the workplace.

Who can be a supervisor?

Under 12 weeks Employed for less than 1 hour	Under 12 weeks Employed for more than 1 hour	12 weeks – less than 6 years	Over 6 years
A parent or guardian of the child present at all times.	Registered nurse or registered midwife present at all times; and	A parent or guardian of the child; or	A parent or guardian of the child; or
	A parent or guardian of the child present at all times.	Person nominated by employer and authorised by parent or guardian; or	Person nominated by employer and authorised by parent or guardian; or
		Person with an approved early childhood teaching qualification included in the list, as in force from time to time, published by the Australian Children’s Education and Care Quality Authority; or	An adult with training or experience in the care of children of the age of the child to be supervised.
		A person who holds a diploma level education and care qualification included in the list, as in force from time to time, published by the Australian Children’s Education and Care Quality Authority; or	
		Registered nurse or registered midwife.	



INFORMATION FOR KEY PEOPLE

SUPPORTING CAST

Find out what you need to do to support a child working in the entertainment industry. This section has detailed information for:

- supervisors
- parents and guardians
- schools
- tutors
- nurses
- agents
- Child Employment Officers.

Supervisors

To be eligible to be a supervisor you must be:

- a parent or guardian of the child
- approved by the parent or guardian of the child following nomination by the employer
- either appropriately qualified or experienced to supervise the child (depending on their age)
- holder of a current Working with Children Check (WWC Check) (except for parents and extended family).

Who can be appointed as a supervisor?

Options include health professionals like registered nurses, a parent or guardian or an employer's representative. The requirements depend on the age of the child being supervised, and the duration of their work. Please refer to the detailed table on page 47.

Role and responsibilities of a supervisor

- You can only be given other tasks to the extent that they do not interfere with your ability to provide direct supervision to the children in your care.
- If you find yourself in a situation where you have so much to do that it becomes difficult to directly supervise, you should advise your employer immediately that you are not able to do the additional tasks.
- Your responsibility is to directly supervise the children at the workplace. This involves ensuring that at all times you are in visual contact with the children and focused on their wellbeing in the workplace.
- Children must not be left in the care of any person who is not nominated as a supervisor. It is not the responsibility of the supervisor, however, to take on the role of the employer at the workplace.
- If you have a valid WWC Check it can be used for subsequent employment should you be nominated as a supervisor.

- You are required to ensure you update your current employer record on the WWC Check website www.workingwithchildren.vic.gov.au.

Parents as supervisors

- As the table on page 47 indicates, a parent can be a supervisor. However, a parent is not taking on the responsibilities of the employer.
- A parent acting as supervisor accepts that his or her role at the workplace is to provide direct supervision of the child.
- A parent cannot be compelled to take this role; it is the parent's choice.
- If a parent is not available or is unable to commit to directly supervise then the employer must appoint another appropriate person.
- If the parent is to take on the role, then he or she must be fully briefed about the role and responsibilities.

Process for raising concerns

What do I do if I am concerned about the safety of a particular activity the child is engaged in?

- As you are the responsible person for direct supervision, if you have a concern then you should address it.
- This may involve removing the child from the activity if the matter is particularly urgent or you may first discuss it with the employer to have the activity changed.
- You could also contact a Child Employment Officer or Victorian WorkCover Authority, depending on the nature of the issue.

Parents and guardians

Information to be provided to a parent or guardian

- A prospective employer is required to provide you with a range of information in writing about the proposed employment of your child, via a Parental Consent Form, including:
 - the name and contact details of the employer and the employer representative
 - workplace location and the business, trade or occupation carried on
 - duties to be performed by the child
 - details of the role to be played by your child
 - hours of work
 - dates of commencement and completion of employment
 - whether employment is proposed during school hours.
- Additionally, prior to your child commencing, the employer must ensure you have received a summary document telling you about the Code. If you request a full copy of the Code then the employer must provide you with a copy.

Legal responsibilities of a parent or guardian

What are my legal responsibilities as a parent of a child working in entertainment?

Consent to your child's employment

- Your key responsibility, following the provision of relevant information and appropriate consideration, is to consent to your child's employment.
- It is an offence for the employer to employ your child prior to you giving written consent. Similarly, it is an offence for you to allow your child to be employed without a permit having been issued to the employer.

- If your child is of school age, and employment is proposed during the school term, it is also your responsibility to obtain an exemption from school attendance for your child.

Provide employer with contact and medical details

- Once an offer of employment has been made and accepted, a Child Employment Permit issued, and you have provided written consent for your child to be employed, your next responsibility is to provide the employer with a range of contact and medical information and authorisations concerning your child. The employer is not permitted to commence employing your child until you provide this information.
- You should obtain the contact details of the employer and direct supervisor so that you may contact them, for example to notify them if your child is ill or unable to attend work when required.

Hours of work

Do I have any obligations regarding the number of hours my child works?

- You should make yourself familiar with the hours of work requirements that relate to your child (page 32).
- You do not have the right to authorise an employer to work your child beyond the maximum hours. Additional hours can only be worked if you agree and a formal variation is granted by a Child Employment Officer.
- A 12 hour break between shifts is required under the Code. To enable employers to comply with their obligation to always provide a child with a 12 hour break between shifts, you must tell the employer if the proposed start for your child is less than 12 hours since finishing work on the previous day.

All references to parents include guardians

Parent attendance at child's workplace

- If your child is more than 12 weeks old, there is no obligation for you to remain at the workplace with your child unless you have accepted the role of direct supervisor.
- You should communicate clearly with the employer so that all parties understand your involvement on the day of employment. There are some employers and some situations where employers would prefer that you remain with your child and there are other employers who may prefer that you do not remain.
- The Code requires the employer to allow you to be present at the workplace at all times that your child is there. It provides that the employer may exclude you from a particular area or from direct contact with your child for a period only when necessary to ensure the production is not disrupted or to protect the health and safety of any person present.
- If your child requests contact with you or another person, the employer must facilitate this.

Parent as supervisor

- As the table on page 47 shows, a parent or guardian can be a supervisor. If asked to take on this role you should understand that you are not taking on the responsibilities of an employer but accepting that your role at the workplace is to provide direct supervision of your own child. This involves remaining with your child throughout the day and not becoming distracted by other children or activities elsewhere.
- You cannot be compelled to take this role; it is your choice (unless the child is under 12 weeks).
- If your child's employment necessitates being away from home overnight and you are to accompany your child, the employer must provide appropriate accommodation for you and your child.

Records to be maintained

- The employer is required to keep records of the hours your child worked and provide you with a copy on request.
- The employer must also keep a copy of the Child Employment Permit, your written consent to your child's employment and any relevant school exemptions.
- A record must be maintained of your child's supervisor and their WWC Check number.
- In order to ensure that all parents are fully informed of their child's and the employer's rights and responsibilities, the employer is required to provide a copy of the Code to any parent who requests a copy.
- As a parent it is in your and your child's best interest to fully understand the regulation that covers child employment. A copy of the Code, the Act and the CE Regulations are downloadable from business.vic.gov.au/childemployment. Alternatively a copy can be requested from a Child Employment Officer.

Process for raising concerns

- If you have any concerns about anything relating to the employment of your child, you should ensure these are addressed.
- You could talk to the employer directly. If you are unsure about who the employer is you should refer to the Child Employment Permit, which names the employer and the employer representative and gives their contact details.
- Alternatively, you could seek out the photographer, production company producer, company manager or some other person in authority. If this is not possible, or you don't feel comfortable with this, you might approach a supervisor or someone else on the production cast or crew. Other options include your child's union organiser, agent or a Child Employment Officer.

Schools

A child who works in the entertainment industry may in some cases be required to work hours that can affect school attendance. Schools have an important role in ensuring that a child's education is not adversely affected by the child's work in the entertainment industry.

Exemption process

Exemption scenarios

- A child may be exempted fully or partially from attending school.
- The employer must engage a tutor to deliver the school's specified number of hours of education. The school may also specify subjects or curriculum to be taught.
- A child may be exempted from attending school without the school having specified the number of hours of education that the child is to receive. In this case, the employer must engage a tutor once the child has been absent from school for the equivalent of nine days in any one school term. The tutor must be engaged to deliver to the child a minimum of two hours of education per day (or an average of two hours of education per day over four weeks) until employment finishes.
- A child may not be exempted from attending school, in which case the child is obliged to attend school.

A child may be engaged by an employer for up to a maximum of 40 hours per week (depending on the age of the child). The 40 hour week includes working hours and education hours (schooling and tutoring).

What is the exemption process?

- If a school principal receives an application for an exemption for a child to be employed in the entertainment industry they should take into account the length and regularity of the absence when assessing the effects. In the great majority of cases, the engagement would be for no more than a few hours on an occasional basis.
- If a child is to be engaged in employment during school hours, the child's parent should apply to the school principal for an exemption from attending school so that a child can work in the entertainment industry. The school principal will make an assessment about whether he or she believes that the child's education will be adversely affected by the employment. The principal will take into account the short and long-term benefits to the child, the child's educational needs, attitudes, employment prospects and the family's views.
- The process for obtaining an exemption from school is separate from the Child Employment Permit application process. The exemption process is prescribed by the Department of Education and Early Childhood Development. Questions about the process should be directed to the appropriate Department of Education and Early Childhood Development office.
- If the proposed employment is a longer term project and the principal determines that the child could benefit from receiving tutoring during his or her absence, the principal is able to determine exactly how much tutoring is required and what subjects should be covered, by setting conditions in relation to the exemption.
- A principal may specifically determine that the child does not need tutoring and this will be noted in the exemption.
- If the principal does not stipulate one way or the other then the child will receive two hours tutoring per day, after an absence equivalent to nine days in a school term.

Applications for Child Employment Permits

- Schools do not have to sign applications for Child Employment Permits. The school exemption process is separate to permit applications. The permit application only requires a signature from the principal if the proposed employment is part of a formal work experience arrangement.
- If the principal's assessment of the child's educational needs changes, the principal can change the conditions attached to an exemption at any time.

Tutoring information

- Any tutor provided by the employer must be a registered teacher and must be appropriately qualified.
- The employer is required to provide an opportunity for the tutor to make contact with the school the child is attending, and to develop an education plan for the child in consultation with the school so that the needs of the child are specifically addressed.
- If the tutor does not contact the principal or the principal is not satisfied with the level of consultation about the work being undertaken by the child, the principal should raise this concern with a Child Employment Officer.

Tutors

There are a number of situations when an employer is required to engage a tutor at a workplace:

- A child may be exempted from attending school, but his or her school may specify the number of hours of tutoring that he or she is to receive. In such a case, the employer must engage a tutor to deliver the specified number of hours of education. The school may also specify the subjects or curriculum to be taught.
- A child may be exempted from attending school without the school having specified the number of hours of education that the child is to receive. In this case, the employer must engage a tutor once the child has been absent from school for the equivalent of nine days in any one school term. The tutor must be engaged to deliver a minimum of two hours of education per day (or an average of 40 hours of education over four weeks).

If no exemption has been granted the child must attend school.

Tutor qualifications

- Tutors must be registered as a teacher in Victoria through the Victorian Institute of Teaching.
- Tutors must also be appropriately qualified to teach the children in question. If the children are secondary school level then they must be qualified to teach secondary level.

Tutoring facilities

- The Code states that the employer must provide dedicated facilities of sufficient size and quality appropriate to the education to be provided.
- The education facility should be for the exclusive use of the tutor and children.
- The employer must ensure the facility has the necessary equipment and space for the children who will use it. Clearly a small trailer out on location would be insufficient for a group of 10 children who all had daily schooling requirements. Similarly, a corner of a green room set up with a couple of desks and chairs would not meet the dedicated facility requirement.

Tutoring requirements

- Tutoring will usually take place during normal working or school hours. The hours spent in education are considered to be part of working hours.
- In some cases, however, the employer and the child's parent may agree that tutoring will take place outside of working hours.
- In most circumstances, a tutor will be engaged and paid directly by the employer. In some cases, where tutoring takes place outside of school hours, a tutor may be paid by the parent who will later be reimbursed by the employer.
- Tutors do not require a WWC Check as they are exempt.
- The Code requires the employer to ensure records are kept of the hours of tutoring given to each child and the subject matter covered. The record can be kept in any form as long as it is legible, accessible and in English. The record should be maintained for the same period as the hours records (12 months from the last entry).
- The employer is required to ensure that the tutor is able to develop an education plan for the child in consultation with the child's school. If the employer does not facilitate this, the tutor should contact a Child Employment Officer.

Nurses

In some limited cases, there is a requirement for a nurse to be engaged to care for children at a workplace in the entertainment industry. In other cases, production companies may choose to engage a nurse on set.

Responsibilities of a nurse

- If a nurse proposes to work with children in the entertainment industry, they must have a valid WWC Check (page 30).
- A nurse should have a good understanding of occupational health and safety issues that surround the employment of children in the entertainment industry and the needs of children generally so that they can effectively supervise children at work.
- An employer is required to engage a nurse on set if employing a baby less than 12 weeks old for one hour or more. A nurse is required to:
 - be present at all times to care for the baby;
 - advise the employer as to whether the baby is fit for employment; and
 - advise the employer if the environment is likely to distress the baby.
- The employer must follow a nurse's professional advice on all matters in relation to the welfare of the baby.
- Some employers choose to engage a nurse specifically for the purpose of supervising children at work even though it may not be a minimum requirement. This might be the case particularly if there is a higher than usual risk with any of the action involved in the job.

Agents

In most cases the role of the child's agent is limited in a formal sense. Agents often assist with the movement of documents between the parties, as well as providing employers with details of the child in order for the employer to complete the online application for a Child Employment Permit.

Agents can play an important role in ensuring that those who book children through their agencies are following the correct procedures in terms of requirements for permits. Agents are also often the first to know if something has gone wrong on a particular engagement.

The role of Child Employment Officers

- Child Employment Officers are appointed under the *Child Employment Act 2003 (Vic)* (the Act) and have two key roles:
 - to provide information to all relevant and interested parties about the operation of the Act and rights and responsibilities
 - to investigate applications for permits and ensure compliance with the Act.
- Child Employment Officers receive and assess permit applications. They have powers of entry and investigation and regularly conduct field visits to ensure all employers are complying with the Act and CE Regulations, the Code and any permit conditions.
- Child Employment Officers also regularly contact parents of children who have had a permit to discuss the employment conditions their child experienced.
- Additionally, officers investigate any reports of alleged breaches. The investigation process provides an opportunity for employers to respond to any allegations made. At the conclusion of the investigation the allegation is either sustained or not sustained and appropriate action is taken.
- Child Employment Officers have the power to cancel a Child Employment Permit at a work site if necessary, in the interests of the child's health and safety.

The cost of not complying with your obligations

There are a number of offences under the Act with penalties of up to 100 penalty units. A person who employs a child in entertainment in contravention of the Code is liable to a penalty of this magnitude.

Offences under the Act attract penalties of up to 100 penalty units. They include:

- employing a child without a permit
- breaching a permit condition
- obstructing and hindering a Child Employment Officer
- breaching a provision of the Code.

Contact details

To contact a Child Employment Officer:

Email: childemployment@dsdbi.vic.gov.au

Tel: 1800 287 287

Emergency after hours contact: 03 9651 9831

Mailing Address

Child Employment Officer
Employment Information and Compliance Unit
Department of State Development
Business and Innovation
GPO Box 4509
Melbourne Vic 3001

Street Address

Child Employment Officer
Department of State Development,
Business and Innovation
Level 33
121 Exhibition Street
Melbourne Vic 3000

Fax: 03 9651 9703

www.business.vic.gov.au/childemployment



THE CODE

POST PRODUCTION

People and source documents who can help. If you need further information, this section contains the *Mandatory Code of Practice for the Employment of Children in Entertainment (2014)* and contact details for Child Employment Officers who can assist you.

Mandatory Code of Practice for the Employment of Children in Entertainment (2014)

INTRODUCTION

This code of practice is made under section 29 of the **Child Employment Act 2003** ('the Act'). This code of practice contains provisions regulating the employment of children in entertainment.

A child is defined in the Act as a person under 15 years of age.

The employer of a child is required to obtain a permit under the Act before the child can engage in employment, unless the child is working in a family business. It is an offence for a person to employ a child unless a permit has been issued for the employment.

Under section 3 of the Act, **entertainment** means any form of entertainment and includes –

- (a) singing, dancing or acting;
- (b) playing a musical instrument;
- (c) appearing in a radio, television, film or Internet program or production, or any similar program or production;
- (d) modelling;
- (e) appearing in promotional events or advertising;
- (f) working as a photographic subject, whether still or moving;
- (g) working in or in relation to a circus;
- (h) taking part in a performance that is recorded for use in a subsequent entertainment or exhibition;
- (i) working in musical theatre, plays, operas or other live entertainment;
- (j) performing in a shopping centre;
- (k) preparatory activities to the entertainment except –
 - (i) screen tests before the child is booked for the entertainment; and
 - (ii) casting walk-ons.

Examples: Examples of preparatory activities include wardrobe fittings, rehearsals, shoots, promotional activities, sounds recordings and re-shoots.

Under section 4(1) of the Act, a child is engaged in **employment** if the child performs work –

- (a) under a contract of service or a contract for services (whether written or unwritten); or
- (b) in a business, trade or occupation carried on for profit under any other arrangement whether or not the child receives payment or other reward for performing that work.

The Act lists activities that do not constitute **employment** in section 4(3). They include (but are not limited to) –

- (a) participating in a church service or religious program;
- (b) participating in a project or entertainment the net proceeds of which are applied for the benefit of a church or other religious body or institution established for public worship;
- (c) participating in a project or entertainment for the benefit or as part of the activities of the school at which the child is enrolled if the child is under the direction or control of the school; or
- (d) performing work in relation to a sporting activity, including coaching, refereeing or umpiring (except in relation to martial arts, horse riding, gym instruction and other sporting activity with a high risk of injury that is prescribed by the regulations).

Under section 32 of the Act, a person who employs a child in entertainment must not contravene the code of practice.

Maximum penalties are specified in section 32 as:

- 100 penalty units in the case of a body corporate;
- 60 penalty units in any other case.

The Act gives a number of powers to the Secretary to the Department of State Development, Business and Innovation or the Secretary's successor in law. In practice, a number of these powers are delegated to child employment officers appointed under the Act.

PROVISIONS OF CODE

PART 1 – PRELIMINARY

1 Application

This code of practice applies to all employers of children working in entertainment, whether or not the employer is named in a permit issued under Division 2 of Part 2 of the **Child Employment Act 2003**.

2 Commencement

This code of practice takes effect on 13 October 2014 in accordance with the order of the Minister made under section 31 of the Act and published in the Victoria Government Gazette.

3 Revocation

This Code supersedes the former Code published in the Victoria Government Gazette on 16 June 2005, as amended from time to time, which was revoked by an order of the Minister made under section 33 of the Act on 13 October 2014.

4 Definitions

In this code of practice –

former Code means the Mandatory Code of Practice for the Employment of Children in Entertainment published in the Government Gazette on 16 June 2005, as varied from time-to-time;

registered midwife means a person registered under the Health Practitioner Regulation National Law (Victoria) –

- (a) to practice in the nursing and midwifery profession as a midwife (other than as a student); and
- (b) in the register of midwives kept for that purpose;

registered nurse means a person registered under the Health Practitioner Regulation National Law (Victoria) –

- (a) to practice in the nursing and midwifery profession as a nurse (other than as a midwife or student); and
- (b) in the registered nurses division of that profession;

registered teacher means a person registered under Part 2.6 of the **Education and Training Reform Act 2006** as a teacher or a person who is granted permission to teach under Part 2.6;

rest break means a period during which the child is not required to carry out any employment duties, including rehearsal and preparation;

the Act means the **Child Employment Act 2003**;

tutoring means the delivery of education by a tutor as required under Part 5;

week means:

- (a) if an employer has a regular working week, the period of 7 consecutive days beginning on and including the day ordinarily regarded as the start of that working week;
- (b) if an employer does not have a regular working week, the period of 7 consecutive days beginning on and including a Monday.

Example: If an employer regularly rosters its employees over a 7 day period, beginning on a Thursday and ending on a Wednesday, this would be the employer's regular working week and so it would be the week for the purposes of this Part.

Note: Other expressions used in this code of practice have the same meanings as they have in the Act. For example –

child means a person under 15 years of age;

Department means the Department of State Development, Business and Innovation or its successor in law; and

Secretary means Secretary to the Department with the responsibility for administering this code of practice.

5 Relationship with awards and agreements

The application of this code of practice is subject to the provisions of any award or agreement in force under the Fair Work Act 2009 that are directly applicable to the employment of children under 15 in entertainment.

6 Provision of information about code to parents and guardians

- (1) Before a child commences employment, an employer must ensure that a parent or guardian of the child is provided with a summary document, in the form approved by the Secretary, explaining this code of practice.
- (2) The Secretary must make the approved form of the summary document available to employers by publishing it on the Internet or making it available in any other manner the Secretary considers appropriate.
- (3) If a parent or guardian of the child requests a copy of this code of practice, the employer must ensure that it is provided to the parent or guardian.

PART 2 – RECORD KEEPING

7 Personal information

Before a child commences employment, an employer must obtain from a parent or guardian of the child the following:

- (a) the name, home address and home telephone numbers of the child; and
- (b) the names, addresses and telephone numbers of the child's parents or guardians; and
- (c) the name, address and telephone numbers of any person who has lawful authority to consent to the medical treatment of the child; and
- (d) an authority signed by a person who has lawful authority to consent to the medical treatment of the child, consenting to the employer seeking, or where appropriate, administering, any emergency medical treatment as is reasonably necessary; and
- (e) the name, address and telephone numbers of any person who is to be notified of any accident, injury, trauma or illness involving the child; and
- (f) details of allergies or other relevant medical conditions and needs of the child; and
- (g) details of any dietary restrictions of the child; and

- (h) names, addresses and telephone numbers of the persons who are authorised to collect the child from the employer.

Note: A Child Information Form, which may be used to record the information specified above, is available at business.vic.gov.au/childemployment

8. Records of employment

An employer must include the following additional details in the records required to be kept under the Child Employment Regulations 2004:

- (a) details of the location at which the child is employed on each occasion of employment; and
- (b) the times during which the child received education from a tutor engaged by the employer, and the general subject matters covered; and
- (c) the information obtained under clause 6.

Note: Under the Child Employment Regulations 2004 employers must keep records containing:

- (a) the times the child started work and finished work each day of work; and
- (b) the hours the child worked each day and each week; and
- (c) the date the child started employment and the date that he or she finished employment; and
- (d) each date the child worked.

Under the Act, employers must also keep certain records relating to parental consent, exemptions from school attendance and child supervisors. Further information about record keeping requirements is available at business.vic.gov.au/childemployment

9 Access to child employment permit

An employer must take a copy of a child's employment permit to each workplace of the child and be able to access the permit.

Note: Under the Act, a child employment officer may require a person to produce a document (including a child employment permit).

PART 3 – GENERAL DUTIES OF EMPLOYER

10 Provision of information about proposed employment

Before a child commences employment, an employer must ensure that:

- (1) the parent or guardian of the child has sufficient information about the intended role and duties that the child will perform and the intended employment hours and workplaces to make an informed decision; and
- (2) the parent or guardian of the child has consented in writing to the proposed employment.

Note: Under section 13 of the Act, when applying for a child employment permit, a prospective employer must give an undertaking that they will ensure that a parent or guardian of the child consents in writing to the child's employment before the employment commences.

11 Food and drink

- (1) An employer must ensure that each child has, at reasonable hours during the employment, access to appropriate and sufficient nutritious food, having regard to the age, taste, culture and dietary restrictions of the child.
- (2) An employer must ensure that each child has access at all times during the employment to water and such other drinks that are suitable having regard to the age and dietary restrictions of the child.

12 Toilet, washing and dressing room facilities

- (1) An employer must ensure that clean and accessible toilet, hand-washing and hand-drying facilities are provided at each place of work of the child.
- (2) An employer must ensure that facilities exist so that any child is able to dress and undress in private.

13 Recreation facilities

An employer must ensure that appropriate recreational materials and rest facilities are available for each child during breaks in work, having regard to the age and developmental needs of the child and the length of the employment.

14 Protection from harmful weather

An employer must ensure that during the employment each child is adequately clothed and otherwise protected from weather that may be harmful to the child's health or safety.

15 Medical issues

- (1) An employer must not allow a child to work if the child is known by the employer to be ill, to be unfit for work, or to be carrying or to have been exposed to an infectious disease that poses a risk to the health of others in the workplace.
- (2) If a child becomes ill or is injured while at work, the employer must immediately notify one of the child's parents or guardians of that fact, or, if no parent or guardian is contactable, another person nominated by the parent or guardian.

Note: Under clause 7(d), prior to employing a child an employer must also obtain a signed authority to seek or administer any emergency medical treatment to the child as is reasonably necessary.

16 Punishment prohibited

An employer must ensure that a child is not subjected during the employment to any form of corporal punishment, social isolation, immobilisation or any other behaviour likely to humiliate or frighten the child.

17 Inappropriate roles or situations

- (1) An employer must ensure that a child is not cast in a role or situation that is inappropriate to the child, having regard to the child's age, maturity, emotional or psychological development and sensitivity.
 - (2) An employer must not allow a child:
 - (a) to be exposed to scenes or situations that are likely to cause distress or embarrassment to the child; or
 - (b) to become distressed in order to obtain a more realistic depiction of a particular emotional reaction.
 - (3) Subject to subclause (4), an employer must not employ a child in any situation in which the child is naked, and must ensure that the child is not present when any other person is naked.
 - (4) Subclause (3) does not apply if:
 - (a) the child is under the age of 12 months; and
 - (b) a parent or guardian of the child has provided written consent to the employer authorising the child to be naked or present when any other person is naked; and
 - (c) a parent or guardian of the child is present for the whole period during which the child is naked or the other person is naked, as the case may be.
- (iii) a person who holds a diploma level education and care qualification included in the list, as in force from time to time, published by the Australian Children's Education and Care Quality Authority in accordance with regulation 137(1)(b) of the Education and Care Services National Regulations; or
 - (iv) a registered nurse, or a registered midwife; and
 - (b) a child aged 6 years or older, is supervised by a parent or guardian of the child, or a person nominated by the employer and authorised by the parent or guardian, or by an adult with training or experience in the care of children of the age of the child to be supervised; and
 - (c) a child less than 12 weeks old is supervised in accordance with the requirements in clause 32.
- (2) An employer must ensure that a supervisor of a child is not given other responsibilities that prevent the supervisor from providing direct supervision to the child.

Note: Under section 19 of the Act an employer must ensure that a child is provided with direct and adequate supervision at all times by a person who has a current assessment notice under the **Working with Children Act 2005** or is exempt from the requirement to have a current assessment notice under section 19B of the Act.

18 Supervision

- (1) In addition to the supervision obligations in section 19 of the Act, an employer must ensure that:
 - (a) a child aged 12 weeks or older but less than 6 years old is supervised by:
 - (i) a parent or guardian of the child or a person nominated by the employer and authorised by the parent or guardian; or
 - (ii) a person who holds an approved early childhood teaching qualification included in the list, as in force from time to time, published by the Australian Children's Education

The Education and Care Services National Regulations prescribe staff to child ratios that must be adhered to when children are being cared for or educated by a children's service. These ratios, while not prescribed for the purposes of this code of practice, may provide guidance as to the appropriate number of supervisors where multiple children are engaged. Further detail about these ratios is available at: business.vic.gov.au/childemployment

19 Parental contact

- (1) An employer must at all times during the employment ensure that each child is able to make contact with their parents or guardians or with some other person responsible for the child and must facilitate the making of any such contact whenever the child so requests or whenever it is otherwise appropriate to do so in the interests of the child.
- (2) Subject to subclause (3), an employer must allow a parent or guardian of a child to be present at the workplace at all times when the child is present at the workplace.
- (3) An employer may exclude a parent or guardian from a particular area of the workplace or from direct contact with the child, provided that the exclusion is only for a period and only from an area necessary to ensure that the employer's undertaking or production is not unduly disrupted, or to protect the health and safety of any person present in the workplace including the parent or guardian.
- (4) If the child's employment requires the child to spend 1 or more nights away from home, the employer must provide appropriate accommodation for both the child and a parent or guardian of the child, if the parent or guardian intends to accompany the child.

20 Travel home

- (1) An employer must ensure that each child aged less than 13 years is collected or taken home after the child finishes work by a parent or guardian of the child, or a person authorised by the parent or guardian to collect or take home the child.
- (2) An employer must ensure that each child aged 13 years or older is collected or taken home after the child finishes work by a parent or guardian of the child, or a person authorised by the parent or guardian to collect or take home the child, unless either of the following applies:
 - (a) the distance between work and home is less than 10 kilometres and travel home will be completed in the ordinary course within daylight hours or before 6pm, whichever is earlier; or

- (b) the employer has been provided with written consent from a parent or guardian of the child permitting the child to travel home alone, and travel home will be completed in the ordinary course before 8.30pm.
- (3) An employer must ensure that each child's journey home commences within 30 minutes after the child finishes work unless the child is accompanied by a parent or guardian of the child.

PART 4 – HOURS OF WORK

21 Calculation of employment time

- (1) A child's total period of employment during any period of 24 hours is to be calculated as if the following periods formed part of the time for which the child is employed:
 - (a) any time in excess of 1 hour spent by the child in travelling from home to the place of work; and
 - (b) any time in excess of 1 hour spent by the child in travelling home from the final place of work; and
 - (c) the whole of the time that the child is required to be at work, excluding the 45 minute rest break required under clause 25 (provided that any time taken for the rest break in excess of 45 minutes must be counted as time worked, unless the longer rest break is taken in order to comply with an award or agreement in force under the **Fair Work Act 2009**); 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's actual commencement of 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.

- (2) Any travel in excess of 1 hour under subclause (1)(a) or (b) must be within the spread of hours during which a child may be employed as specified under clause 22.
- 22 Maximum number of days of employment in any week, employment hours per day, consecutive days of employment and spread of hours**
- (1) An employer must not employ a child in excess of the maximum number of days of employment in any week, the maximum employment hours per day or the maximum number of consecutive days of employment specified in Table A or Table B (whichever applies).
- (2) An employer must not employ a child outside the spread of hours specified in Table A or Table B (whichever applies).
- (3) **Table A** applies to children working in any form of entertainment not covered by **Table B**, including:
- (a) appearing in a radio, television, film or Internet program or production, or any similar program or production;
 - (b) appearing in promotional events or advertising;
 - (c) working as a photographic subject, whether still or moving;
 - (d) modelling;
 - (e) performing in a shopping centre;
 - (f) taking part in a performance that is recorded for use in a subsequent entertainment or exhibition;
 - (g) taking part in preparatory activities to these forms of entertainment (excluding screen tests before the child is booked for the entertainment and casting walk-ons).
- (4) **Table B** applies to children working in musical theatre, plays, operas or other live entertainment, or in or in relation to a circus, including preparatory activities to these forms of entertainment (excluding casting walk-ons).
- (5) An employer must not employ a child to work later than 9pm on any day if the child is required to attend school on the morning of the following day.
- (6) An employer must not employ a child for more than 4 hours on any day on which the child attends school for at least 3 hours.

TABLE A – Film, Television, Radio, Advertising, Photography, Modelling etc.

Age	Maximum number of days of employment in any week	Spread of hours	Maximum employment hours per day	Maximum number of consecutive days of employment
Under 3 years	3	6am–6pm	4 hours	3
3 years and under 8 years	4	6am–11pm*	6 hours**	4
8 years and under 15 years	5	6am–11pm*	8 hours**	5

*A child cannot work beyond 9pm if they are required to attend school on the morning of the following day.

**A child cannot work for more than 4 hours on any day on which they attend school for 3 hours or more.

TABLE B – Live Entertainment, including Musical Theatre, Plays, Operas, Circus etc.

Age	Maximum number of days of employment in any week	Spread of hours	Maximum employment hours per day	Maximum number of consecutive days of employment
Under 2 years	1	9am–6pm	4 hours	1
2 years and under 6 years	3	9am–6pm	4 hours	3
6 years and under 10 years	4	9am–10pm*	4 hours	4
10 years and under 12 years	4	9am–11pm*	6 hours**	4
12 years and under 15 years	4	9am–11pm*	8 hours**	4

*A child cannot work beyond 9pm if they are required to attend school on the morning of the following day.

**A child cannot work for more than 4 hours on any day on which they attend school for 3 hours or more.

23 Maximum weekly education and employment hours

- (1) In this clause –
education hours means:
- (a) if the child has not been exempted from attendance at school, 4 hours for each school day; or
 - (b) if the child has been fully or partly exempted under section 2.1.5 of the **Education and Training Reform Act 2006** from attendance at school to undertake employment:
 - (i) any hours of tutoring required to be undertaken in accordance with this code of practice; and
 - (ii) 4 hours on any day that the child attends school for 4 hours or more, or 2 hours on any day that the child attends school for less than 4 hours.

employment hours means the hours that a child is employed in any week.

- (2) A child's combined education hours and employment hours must not exceed 40 hours in any week.
- (3) An employer must not employ a child in contravention of subclause (2).

Note: It is an offence under the Act for a child to be employed during school hours on any school day unless the child has been granted an exemption from attendance at school. A child's school principal has authority to exempt the child from school attendance to undertake employment in the entertainment industry. Applications for exemptions must be made, and will be assessed, in accordance with Department of Education and Early Childhood Development guidelines.

The limit of 40 hours per week for work and education is an overall maximum. Employers must also comply with clause 22 of this code of practice, which limits the spread of hours, number of hours per day, number of days per week and number of consecutive days that a child may be employed (see clause 22, Tables A and B)

24 Shifts

- (1) Subject to this clause, an employer –
 - (a) must not employ a child for more than 1 shift on any day; and
 - (b) must ensure that a child is not required to start work on a day less than 12 hours after the child has finished work on the previous day, whether for the same or for any other employer;
- (2) Subclause 1(a) does not apply if the working day is interrupted to enable the child to attend regular school.
- (3) Subclause 1(b) does not apply if the employer reasonably believes, after making reasonable enquiries, that before commencing work with the employer, the child had not worked for another employer in the preceding 12 hour period.

25 Rest breaks

An employer must ensure that a child is given:

- (a) a 10 minute rest break every hour; and
- (b) a 45 minute rest break every 5 hours, provided that the first 45 minute break must commence at or before 1pm if the child commenced work prior to 10am.

26 Variation of clauses 22, 23, 24 and 25

- (1) On written application from an employer, the Secretary, or a child employment officer appointed under section 38 of the Act, may approve in writing a variation of any requirement of clauses 22, 23, 24 or 25 in relation to a particular activity, event, performance or production.
- (2) The employer's application must contain reasons for the proposed variation and be provided to the Secretary or a child employment officer sufficiently in advance of the work in question to enable a proper assessment to be made of the merits of the application.

- (3) A variation may only be approved if the Secretary or a child employment officer is satisfied that the health, education and moral and material welfare of the child or children concerned will not suffer as a result of the variation.
- (4) A variation is subject to any conditions determined by the Secretary or a child employment officer and specified in the variation.
- (5) The employer must comply with the requirement as varied under this section, including any conditions to which the variation is subject.

PART 5 – TUTORING

27 When tutoring is to be provided

- (1) If a child has been exempted from attendance at school under section 2.1.5 of the **Education and Training Reform Act 2006** and it is a condition of the exemption that the child fulfil a stipulated period of education, the employer must engage a tutor to provide the stipulated amount and subject matter (if stipulated) of education.
- (2) If no period of education is stipulated in the exemption, once a child is absent from school for a period or periods totalling 9 days during employment with the employer, the employer must engage a tutor to provide at least 2 hours of education on each school day for the remainder of the employment.
- (3) For the purposes of subclause (2), if a child attends school for a **part day** on 2 occasions, that is taken to be a day's absence. A part day is a day on which a child attends school for less than 4 hours.
- (4) The employer may meet the obligation in subclause (2) by providing tutoring over a period of up to 4 weeks, such that the child receives an average of 10 hours of tutoring per week over that period.

28 Hours of tutoring

- (1) If an employer is required to engage a tutor under clause 27, the employer must ensure that the tutoring is provided during the spread of hours specified under clause 22.
- (2) Despite subclause (1), if the provision of tutoring during the spread of hours specified under clause 22 is impractical, a parent or guardian of the child and the employer may agree for the parent or guardian to obtain the services of a tutor to provide education outside the spread of hours.
- (3) For the avoidance of doubt:
 - (a) when calculating the total weekly hours of employment and education under clause 23, any time spent in tutoring undertaken in accordance with subclause (2) must be included; and
 - (b) when calculating the maximum employment hours per day and maximum number of days of employment in any week under clause 22, any time spent in tutoring must not be included.

29 Qualifications of tutor

A tutor engaged by an employer under clause 27 must be a registered teacher who is appropriately qualified to teach the child having regard to the child's age and level of education.

30 Tutoring facilities/education plan

If an employer is required to engage a tutor under clause 27, the employer must:

- (a) ensure that the tutor is given a proper opportunity to consult with the child's school and develop an education plan for the child in consultation with the school; and
- (b) provide an area of sufficient space and facilities of sufficient quality to enable the tutor to provide appropriate education to the child, and ensure that children being tutored and the tutor have exclusive access to the area and facilities while education is being provided.

31 Tutoring expenses

- (1) If a parent or guardian of the child obtains the services of a tutor to provide tutoring outside the spread of hours in accordance with subclause 28(2), the employer must reimburse the parent or guardian for the costs of the tutor.
- (2) For the avoidance of doubt, an employer is not obliged under subclause (1) to reimburse the parent or guardian for tutoring hours in excess of those required to be provided in accordance with this code of practice.
 - (i) the baby was delivered full term and in good health; and
 - (ii) the baby's birthweight was at least 3 kilograms; and
 - (iii) the baby has not had any post-natal problems; and
 - (iv) the baby is feeding successfully; and
 - (v) the baby's weight gain from birth has been satisfactory.

PART 6 – BABIES

32 Application of this Part

This Part applies to babies who are less than 12 weeks old.

33 Baby to be fit for employment and adequately supervised

- (1) An employer must not employ a baby for more than 1 hour on any day unless:
 - (a) a registered nurse or registered midwife is present at all times; and
 - (b) a parent or guardian of the baby is present at all times; and
 - (c) the registered nurse or registered midwife advises the employer that the baby is fit for employment; and
 - (d) the registered nurse or registered midwife advises the employer that the environment in which the baby is to be employed is unlikely to cause the baby to become distressed; and
 - (e) the employer follows the advice of the registered nurse or registered midwife in all matters that relate to the welfare of the baby.
- (2) An employer may employ a baby for 1 hour or less on any day provided that:
 - (a) a parent or guardian of the baby is present at all times; and
 - (b) the employer is satisfied on advice from the parent or guardian that:

34 Harmful lighting not to be used

An employer must not allow a baby to be exposed to harmful lighting during the employment.

35 Use of make-up

An employer must not allow make-up to be applied to a baby during the employment unless the make-up is non-irritating and uncontaminated.

36 Segregation from persons suffering respiratory or skin infections

An employer must not allow any person who is known by the employer to have a respiratory or skin infection or to be carrying an infectious disease to come into contact with a baby during the baby's employment.

PART 7 – TRANSITIONAL

37 General transitional provision

This part does not affect or take away from the Interpretation of Legislation Act 1984.

38 Application of Code to employment before 13 October 2014

- (1) This clause applies to a contract or other arrangement under which a child was employed in entertainment in accordance with the Act, the Regulations and the former Code, that was in force immediately before 13 October 2014 and that continues in force on and after that day.
- (2) On and after 13 October 2014, the provisions of this code of practice that are applicable during the employment of a child apply in relation to a contract or other arrangement referred to in subclause (1).

39 Application of Code to permit granted before 13 October 2014

- (1) This clause applies to a permit for a child to engage in employment in entertainment that was granted in accordance with the Act, the Regulations and the former Code, that was in force immediately before 13 October 2014 and that continues in force on or after that day.
- (2) On and after 13 October 2014, the following provisions of this code of practice apply in relation to the employment to which a permit referred to in subclause (1) relates –
 - (a) if the employment commenced before 13 October 2014, the provisions of this code of practice are applicable during the employment of a child;
 - (b) if the employment commences on or after 13 October 2014, the whole of this code of practice.

Further information

Visit www.business.vic.gov.au/childemployment for more information and advice about:

- the *Child Employment Act 2003 (Vic)*
- to obtain an Application for a Child Employment Permit.

Or contact a Child Employment Officer on telephone number 1800 287 287.

Note: This publication has been prepared for general information only. It is not a substitute for legal advice. To ensure compliance with the law readers should seek further advice before acting on the information provided.

Contact details

Child Employment Officer
Employment Information and Compliance Unit
Department of Economic Development, Jobs,
Transport and Resources

GPO Box 2392
Melbourne Vic 3001

Tel: 1800 287 287

Fax: 03 9651 9703