

# KEEPING CHILDREN SAFE IN THE WORKPLACE

1ST EDITION

SEPTEMBER 2006



Information for employers and others on the health and safety of children in the workplace.

# CONTENTS

<b>INTRODUCTION</b> .....	<b>2</b>
<b>1. BACKGROUND</b> .....	<b>5</b>
Who is a 'child'? .....	5
Children in workplaces .....	5
Child injuries and deaths in Victorian workplaces . . .	5
What is a workplace? .....	7
<b>2. HEALTH AND SAFETY RESPONSIBILITIES</b> .....	<b>8</b>
What are my responsibilities? .....	8
Reasonable practicability .....	8
<b>3. WHY CHILDREN ARE DIFFERENT</b> .....	<b>9</b>
What matters should I be aware of? .....	9
Special risk factors for children .....	9
<b>4. MAKING PREPARATIONS FOR CHILDREN IN THE WORKPLACE</b> .....	<b>11</b>
What should I do when I have children working in my workplace? .....	11
<b>5. SUPERVISION, INDUCTION AND TRAINING</b> .....	<b>13</b>
<b>6. RESPONSIBILITIES OF OTHERS</b> .....	<b>14</b>
Other duties .....	14
What responsibilities do employees have? .....	14
Do child employees have responsibilities too? . . . .	14
<b>7. ACKNOWLEDGEMENTS AND FURTHER INFORMATION</b> .....	<b>15</b>

The information presented in the *Keeping Children Safe in the Workplace* guide is intended for general use only. It should not be viewed as a definitive guide to the law, and should be read in conjunction with the *Occupational Health and Safety Act 2004*.

Whilst every effort has been made to ensure the accuracy and completeness of the publication, the advice contained herein may not apply in every circumstance. Accordingly, the Victorian WorkCover Authority cannot be held responsible, and extends no warranties as to:

- the suitability of the information for any particular purpose;

- actions taken by third parties as a result of information contained in *Keeping Children Safe in the Workplace*.

The information contained in this publication is protected by copyright. The Victorian WorkCover Authority hereby grants a non-exclusive licence in this publication to the recipient of this publication on the condition that it is not disseminated for profit. The Victorian WorkCover Authority encourages the free transfer, copying and printing of the information in this publication if such activities support the purposes and intent for which the publication was developed.

WorkSafe Victoria is a division of the Victorian Workcover Authority.

# INTRODUCTION

All people in Victorian workplaces, including children working in, visiting or present in a workplace for any reason are protected under the *Occupational Health and Safety Act 2004* (OHS Act).

This guidance has been developed to assist those in workplaces where children work, visit or are likely to be present.

It contains general information for employers, the self-employed, and those who manage or control workplaces, as well as employees. It may also be of interest to parents, guardians, teachers and children.

If you employ children now or plan to in the future, you need to be aware of your duties under the *Child Employment Act 2003*, administered by Industrial Relations Victoria.

Click [here](#) for a summary of these requirements or visit the **Industrial Relations Victoria** website at [www.irv.vic.gov.au](http://www.irv.vic.gov.au) for further information.

---

## Supported and Endorsed by

### Industrial Relations Victoria

Department of Innovation, Industry  
and Regional Development



The **Child Employment Act 2003** regulates the employment of children under the age of 15. The Act broadly defines employment to include both paid and unpaid work, and applies to a child who is engaged as an employee or independent contractor.

## SUMMARY OF HEALTH AND SAFETY RELATED PROVISIONS

### Permits

A person must not employ children unless a permit has been issued for the employment.

A permit is not required for a child to work in a family business, including a family farm.

The employer must comply with any special conditions relating to health and safety detailed on the permit. For example, a condition may limit children's employment to a particular locality or event or restrict the activities or equipment to be used by children in the workplace.

Children under the age of 15 must have a permit to work during school hours, after school hours, on weekends or during school holidays, and for certain school work experience placements. For information about school work experience requirements, visit [www.sofweb.vic.edu.au/voced/workexp](http://www.sofweb.vic.edu.au/voced/workexp).

### Minimum age

In general, a child must be 13 years old before they can engage in any form of employment.

Children may deliver newspapers, pamphlets or other advertising material, or items for a registered pharmacist, from the age of 11 years.

The minimum age does not apply to children employed in a family business or the entertainment industry.

### Light work

Children are only able to be employed in 'light work', which is work or any other activity not likely to harm their health or safety, moral or material welfare or development, nor impact on their attendance at school or capacity to benefit from instruction.

This applies to all children who are working including those working on family farms, in other family businesses, in entertainment, sporting activities, or non-profit organisations.

Examples of light work include:

- going on errands
- casual work in or around a private home
- golf-caddying
- clerical work
- gardening
- street trading
- delivering newspapers, pamphlets or other advertising material
- making deliveries for a registered pharmacist
- entertainment
- farming related chores
- working as a sales assistant in a shop.

## **Hours of work (except when employed in a family business or in the entertainment industry)**

The maximum number of hours, including rest breaks, a child may work are:

- 3 hours per day and 12 hours per week during the school term, and
- 6 hours per day and 30 hours per week outside the school term.

## **Rest breaks (except when employed in a family business or in the entertainment industry)**

An employed child must be given a rest break of at least:

- 30 minutes after every 3 hours of work, and
- 12 hours between finishing one shift and starting the next.

## **Prohibited work**

A person must not employ children in any of the following kinds of employment:

- door-to-door selling
- on a fishing boat, other than a boat operating on inland waters
- on a building or construction site (whether commercial or residential) at any time before the buildings on the site are at lock-up stage
- any kind of employment declared to be prohibited.

This prohibition applies to all employment arrangements including family businesses and non-profit organisations.

## **Direct supervision**

Children employed subject to a permit issued under the *Child Employment Act 2003* must be directly supervised in the workplace. The employer may be the direct supervisor or may appoint another suitable person. The suitability of employers and other direct supervisors (except parents, guardians and extended family members) is determined through a police check.

A parent or guardian must directly supervise a child employed in a family business.

## **Entertainment Industry**

In order to more appropriately regulate the employment of children in the entertainment industry, the Minister for Industrial Relations made the *Mandatory Code of Practice for the Employment of Children in Entertainment* under section 29 of the *Child Employment Act 2003*. The Code regulates matters such as:

- daily hours of work
- spread of hours
- shifts and rest breaks
- provision of education
- a 40-hour limit on combined work and education
- travel
- food, drink and amenities
- parental contact
- supervision
- inappropriate roles or situations
- specific provisions for babies.

**For more information, contact a Child Employment Officer at Industrial Relations Victoria on 1800 287 287.**

# 1

## BACKGROUND

This guidance considers all those aged under 15 as a child. However, much of the information contained in this brochure is also relevant to adolescents older than 15.

### WHO IS A 'CHILD'?

This guidance considers all those aged under 15 as a child. However, much of the information contained in this brochure is also relevant to adolescents older than 15.

### CHILDREN IN WORKPLACES

In the past it was common for some children under 15 to have part-time jobs or to help in family businesses such as farms and shops. Children were likely to be employed delivering papers, baby sitting, street selling or cleaning.

Today, however, more children are likely to be working more regularly and for longer periods of time in a much wider range of jobs.

#### NOW, CHILDREN ARE LIKELY TO BE EMPLOYED AT WORKPLACES SUCH AS:

- fast food outlets
- TV, film and advertising sets
- supermarkets
- restaurants and cafes
- department stores
- factories
- major events.

### CHILD INJURIES AND DEATHS IN VICTORIAN WORKPLACES

Children, like other employees, may be exposed to health and safety risks.

Compensation claims data shows that children under the age of 15 are regularly injured in Victorian workplaces. Injuries include fractures, sprains and strains, open wounds, burns, contusions and crushings. Often these injuries are caused by trips, slips and falls, hitting objects, being hit by moving objects, and body stressing.

Mostly these injuries are to hands and fingers, back, shoulder, arm, wrist and head.

Regretfully, each year children die from work-related incidents. There were 32 child fatalities between 1986 and 2004. Most of these occurred on family owned farms, with the children either family members or visitors. (You can find more information about farm safety on [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)). However, some fatalities occurred at workplaces where the children were employed. The following cases are adapted from incidents in Australia and overseas.

Children, like other employees, may be exposed to health and safety risks.

## CASE ONE

A three year old boy was playing in the kitchen of his parents' restaurant while they prepared for trade.

When a cook went to get other ingredients the boy tried to snatch peanuts out of an electric mincing machine.

Unfortunately, his fingers were trapped as he reached down the funnel. As his hand could not be freed he was rushed to hospital with the machine still attached. The boy's fingers were too badly damaged to be repaired and were amputated.

## CASE TWO

A 13 year old girl worked in her uncle's beachside ice cream shop during the summer holidays.

As she was short, she had to stand on tip toes to reach the containers and use force to scoop up the hard ice cream.

Soon, her right shoulder, arm and wrist became very sore and she required several months of rest and physiotherapy to recover from the injury.

## CASE THREE

Several small boys climbed through a gap in a fence around a construction site after the builders went home.

Once inside, they played in and around partly constructed buildings, finding a stack of large concrete pipes to crawl through.

As one boy climbed out, he stumbled and fell against a pipe causing it to move slightly. The whole stack then rolled, crushing one of the boys, who later died in hospital from his injuries.

## CASE FOUR

A 14 year old girl worked part-time at a café where the owner's friends were regular patrons.

One began to touch her whenever she cleared their table or took their orders. Though embarrassed, she did not know what to do and the man did not stop. Finally she told the owner, who said his friend was just teasing and he didn't want to hear complaints about good customers.

One day the man was waiting for the girl after her shift and tried to persuade her to get into his car. She ran home and told her parents who reported the matter to the police.

## CASE FIVE

A farmer asked his 12 year old son to check the farm gates were closed, as a neighbour had phoned to say cattle were on the public road. The boy took the ATV instead of his bicycle, and apparently went across the paddock to practice driving between some shade trees on his way back from checking the gates.

When he had not returned after an hour, his father went to check and saw the ATV but not his son. He ran to the trees and found the ATV had hit a branch hidden in long grass and the boy had been thrown off. As he was not wearing a helmet he received head injuries and needed several months to recover before he could return to school.

If you are an employer, self-employed, or a person who owns, manages or controls a workplace, ask yourself: “Is there any chance that a child will be in my workplace, for any reason, at any time?”

## WHAT IS A WORKPLACE?

A workplace is a place where employees or self-employed persons work, whether in a building or structure or not. This can be almost anywhere: a paddock, a building, a truck, a family’s home, a tent, a park, a sports ground, or a boat.

If a child is delivering newspapers, for example, the workplace is the route that the child has to take and where the child is at any given time.

### CHILDREN IN WORKPLACES ARE PROTECTED BY HEALTH AND SAFETY LAWS EVEN IF THEY ARE NOT EMPLOYEES. FOR EXAMPLE, THEY MAY:

- live on a farm or at a place where a business or family business is conducted
- enter the workplace with family members who may be the employer or an employee (e.g. during or after work, in school holidays, for work Christmas parties, etc.)
- ride in a truck or other vehicles being used for work
- be a student in a school, a patient in a hospital or a customer in a shop
- enter a workplace such as a construction site, factory or workshop when the employees have gone home
- enter a backyard workshop of a self-employed person who works from home.

If you are an employer, self-employed, or a person who owns, manages or controls a workplace, ask yourself:

**“Is there any chance that a child will be in my workplace, for any reason, at any time?”**

If you answer **“yes”**, you must consider the presence or likely presence of children in your workplace when you are identifying hazards and controlling risks.

# 2

## HEALTH AND SAFETY RESPONSIBILITIES

### WHAT ARE MY RESPONSIBILITIES?

If you are an **employer**, under the OHS Act you have a duty to provide and maintain a working environment that is safe and poses no risks to health, so far as is reasonably practicable.

The OHS Act also requires you to ensure, so far as is reasonably practicable, that persons other than your employees are not exposed to risks to their health or safety arising from activities being undertaken in the workplace.

If you are **self-employed** you have a duty to ensure people are not exposed to health or safety risks arising from activities being undertaken in your workplace. For example, if it is likely children may be able to enter a workplace during or after working hours, you should ensure so far as is reasonably practicable that your workplace is made secure.

If you **manage or control** a workplace you are required, so far as is reasonably practicable, to ensure that the workplace and the means of entering and leaving it, are safe and pose no risks to health and safety.

The OHS Act provides for the protection of children who are employed at a workplace, as well as children who are in or near a workplace for any other reason.

### REASONABLE PRACTICABILITY

Many duties under the OHS Act and regulations are qualified by 'so far as is reasonably practicable'.

To comply with duties to ensure health and safety, you must consider the following when you assess what is 'reasonably practicable':

- the likelihood of the hazard or risk eventuating
- the degree of harm that would result if the hazard or risk eventuated
- what you know, or ought reasonably know, about the hazard or risk and any ways of eliminating or reducing these
- the availability and suitability of ways to eliminate or reduce the hazard or risk
- the cost of eliminating or reducing the hazard or risk.

When reviewing your risk management systems before children begin work, you need to consider what is reasonably practicable, considering all special risk factors.

You also need to consider these matters at all times when you employ children, not just before they start work.

# 3

## WHY CHILDREN ARE DIFFERENT

### WHAT MATTERS SHOULD I BE AWARE OF?

When complying with duties under the OHS Act and regulations to ensure health and safety, you are required to eliminate health and safety risks, or reduce those risks so far as is reasonably practicable.

You should be aware that the risk management processes you have to safeguard adult employees may not adequately protect children.

Most workplaces and jobs are established in the expectation that adults with the appropriate physical and mental capacities, skills, training and experience will do the work. If there are child employees in the workplace, it is unlikely they will be able to do the same work as adults in the same way. As such, children should not be substituted for adult workers.

### SPECIAL RISK FACTORS FOR CHILDREN

The age of the child should be considered as a specific risk factor when identifying hazards and controlling risks.

It is important to be aware that in work situations, some hazards pose a higher risk to children than adults. When incidents happen, the consequences can be very severe. WorkSafe Victoria has investigated incidents involving children that have resulted in very serious injuries and even fatalities.

# WHY CHILDREN ARE DIFFERENT

---

## YOU SHOULD ALSO BE AWARE CHILDREN:

- do not possess experience, knowledge or judgment about workplace hazards and safe work practices
- are unlikely to know if they are being exposed to health and safety risks and may find it hard to speak up even if they do
- may be energetic and enthusiastic, but shy about asking questions or making demands of adults
- may do work they are not prepared for nor capable of doing safely because they are used to being told what to do by adults
- are often keen to please so they might try to imitate what they see adults doing
- may skylark near machinery or chemicals, etc. without realising the risks involved
- can be inquisitive and adventurous and their natural curiosity may lead them into dangerous situations in workplaces
- do not have the experience and maturity to respond appropriately in unexpected, dangerous or stressful situations, such as when customers become aggressive or there is the threat of violence
- may be vulnerable to pranks and teasing by adult workers taking advantage of their inexperience and innocence
- may be vulnerable to bullying and harassment
- are still growing and will be comparatively weaker and have less stamina than adults.

# 4

## MAKING PREPARATIONS FOR CHILDREN IN THE WORKPLACE

### WHAT SHOULD I DO WHEN I HAVE CHILDREN WORKING IN MY WORKPLACE?

Workplaces should be safe for all employees, however, because of the special risk factors for children, they require special attention and prevention efforts need be targeted specifically to them.

It is important to consult with your employees and any health and safety representative (HSR) about bringing children to the workplace and gain their views on possible hazards.

#### YOU SHOULD PREPARE FOR CHILD EMPLOYEES BY:

- identifying hazards and eliminating them by redesigning the workplace or work processes
- controlling risks in instances when they cannot be eliminated
- reviewing risk management systems and all work practices, ensuring safe systems of work are in place and maintained
- reviewing workplace policies and procedures and amending them where necessary
- discussing the risks to children and their specific needs in the workplace with adult employees
- encouraging adult employees to support children by keeping an eye out for them and how they are managing the work
- identifying those with appropriate skills and experience to ensure children will be provided with adequate direct supervision
- appointing a person with these skills and abilities to be the child's direct supervisor.

# MAKING PREPARATIONS FOR CHILDREN IN THE WORKPLACE

Employees, including children, must be consulted when you are identifying hazards and controlling risks. If there is a HSR they must also be involved in the consultation.

## YOU SHOULD ALSO ASK YOURSELF THE FOLLOWING QUESTIONS:

Are the duties being performed by the child "light work" as defined in the <i>Child Employment Act 2003</i> ?	<input type="checkbox"/>
Will the children have the physical strength to carry out the tasks?	<input type="checkbox"/>
Will the children have the stamina to work at the tasks for the required period of time?	<input type="checkbox"/>
Will the children be able to concentrate on the task for the required period of time?	<input type="checkbox"/>
Will the children be working at jobs that might expose them to the risk of strains, sprains and over-use injury? If so, have manual handling hazards and risks been identified and controlled?	<input type="checkbox"/>
Will the children be using any plant? And if so, have plant hazards and risks been identified and controlled? For example: <ul style="list-style-type: none"> <li>• will they be able to reach all parts of the machines they may need to use?</li> <li>• will they be able to put their hands through gaps in guarding that is adequate to protect adults?</li> <li>• will they be able to hold and use hand held plant properly?</li> </ul>	<input type="checkbox"/>
Will the children be working in a noisy environment? And if so, have noise exposure hazards and risks been identified and controlled?	<input type="checkbox"/>
Will children be exposed to extremes of temperatures? And if so, have temperature hazards and risks been controlled?	<input type="checkbox"/>
Will children be doing any work at heights, e.g. in the entertainment industry? And if so, have falls hazards and risks been identified and controlled?	<input type="checkbox"/>
Will children be working with chemicals or where chemicals are being used? And if so, have hazardous substances hazards and risks been identified and controlled? For example: <ul style="list-style-type: none"> <li>• will children be likely to be in a workplace or have access to a workplace where lead processes are taking place (e.g. radiator repair shops)?</li> <li>• will children be using cleaning chemicals?</li> </ul>	<input type="checkbox"/>

When answering all the questions above, the child employee's age and stage of development must be considered.

**Tasks the children will be doing should be considered so that any hazards which pose risks to health and safety can be identified, and the risks eliminated or reduced so far as is practicable. This relates to all hazards, not just those for which there are regulations.**

Employees, including children, must be consulted when you are identifying hazards and controlling risks. If there is a HSR they must also be involved in the consultation.

You should also discuss all these matters and provide information about hazards, risks and risk controls to the children's parents, guardians, and teachers, as well as the children themselves.

# 5

## SUPERVISION, INDUCTION AND TRAINING

If you regularly employ children, or are considering employing children or offering work experience placements to school students, you should develop a policy that details how children will be inducted, trained and supervised.

### **SUPERVISION, INDUCTION AND TRAINING**

If you regularly employ children, or are considering employing children or offering work experience placements to school students, you should develop a policy that details how children will be inducted, trained and supervised.

The policy should be developed in consultation with employees and any HSR, or with the employees where there is no HSR. You should provide the policy to parents, guardians, teachers and children for their information and for discussion.

Under the *Child Employment Act 2003*, a direct supervisor must be appointed. This person should have appropriate skills and experience, and be provided with supervisor training on:

- childhood development
- age as a factor in risk management processes
- how children can be protected from teasing, bullying and harassment.

When children begin work, you should:

- talk to them about health and safety
- introduce them to their direct supervisor, any HSR as well as other employees, and explain what the supervisor and HSR roles are
- before the child begins work, give them a full induction on the safety systems including first aid, emergency procedures, and incident reporting
- check regularly to ensure that the children remember this information
- show the children the safe work practices for the job and make sure they can do the work using the demonstrated practices
- regularly check that the children still recognise hazards and risks and use the safe work practices they were shown
- regularly inspect and maintain equipment that children may need to use to ensure it is safe
- ensure that information about health and safety requirements is prominently displayed where all employees can easily read it.

All incidents prescribed in Part 5 of the OHS Act should be reported to WorkSafe Victoria.

# 6

## RESPONSIBILITIES OF OTHERS

### OTHER DUTIES

The OHS Act also puts a duty on persons to not engage in reckless conduct that may place another person at a workplace in danger of serious injury.

You need to ensure that any person who may be in your workplace is aware of their responsibilities. For example, you may have a policy for contractors, suppliers or visitors as well as your own employees on site entry and behaviour in the workplace.

### WHAT RESPONSIBILITIES DO EMPLOYEES HAVE?

Employees have certain responsibilities for health and safety in the workplace, including:

- taking reasonable care for their own health and safety
- taking reasonable care for the health and safety of others in the workplace who may be affected by what employees do or do not do
- co-operating in actions taken to comply with health and safety requirements (such as wearing personal protective equipment, following work practices and procedures, etc.)
- not wilfully or recklessly interfering or misusing anything provided in the interests of health and safety.

### DO CHILD EMPLOYEES HAVE RESPONSIBILITIES TOO?

Employed children have responsibilities to work safely and not harm themselves or others, the same as other employees. However, like other employees, this duty is limited by what children know about the circumstances.

**You should realise that there are limits to what work children can safely do, as well as how well they can understand concepts such as hazards and risks.**

**You should not expect the same understanding or responsibility from a child as you would from an adult. In particular, if you are employing children under school age and school children in the early school grades, such as young actors and models, they cannot be expected to understand and fulfil the employee responsibilities.**

**Consequently, you should be aware that you have a very high duty to protect the health and safety of child employees under the age of 15.**

# 7

## ACKNOWLEDGEMENTS AND FURTHER INFORMATION

WorkSafe Victoria acknowledges the WorkSafe Western Australia Commission *Code of Practice for the Health and Safety of Young People in Workplaces* as a source of information for this publication.

### **WORKSAFE VICTORIA**

WorkSafe Victoria offers a complete range of OHS services including: emergency response, advice, information and education, inspections and audits, licensing and certification, publications, and online guidance.

WorkSafe Victoria publications can be downloaded from [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au) or obtained through the WorkSafe Victoria Advisory Service on (03) 9641 1444 or toll free on 1800 136 089.

## **WORKSAFE VICTORIA**

### **Advisory Service**

222 Exhibition Street  
Melbourne 3000

Phone . . . . . 03 9641 1444  
Toll-free . . . . . 1800 136 089  
Email . . . . . [info@workcover.vic.gov.au](mailto:info@workcover.vic.gov.au)

### **Head Office**

222 Exhibition Street  
Melbourne 3000

Phone . . . . . 03 9641 1555  
Toll-free . . . . . 1800 136 089  
Website . . . . . [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)

### **Local Offices**

Ballarat . . . . . 03 5338 4444  
Bendigo . . . . . 03 5443 8866  
Dandenong . . . . . 03 8792 9000  
Geelong . . . . . 03 5226 1200  
Melbourne  
(628 Bourke Street) . . . . . 03 9941 0558  
Mildura . . . . . 03 5021 4001  
Mulgrave . . . . . 03 9565 9444  
Preston . . . . . 03 9485 4555  
Shepparton . . . . . 03 5831 8260  
Traralgon . . . . . 03 5174 8900  
Wangaratta . . . . . 03 5721 8588  
Warrnambool . . . . . 03 5564 3200