

# Children and Young People (Employment) Standards 2011 (No 1)

Disallowable instrument DI2011–138

made under the

Children and Young People Act 2008, Section 887 (Standard Making Power)

## EXPLANATORY STATEMENT

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### Introduction

The *Children and Young People (Employment) Standards 2009 (No 1)* provide a framework to support and protect children and young people under the age of 18 in employment in the ACT. These standards outline the responsibilities of employers, children and young people and parents/guardians in regards to the employment of children and young people.

The standards aim to ensure that children and young people experience the benefits that participation in employment can provide (including building independence, self esteem, money, skills and friendships) within clear, protective guidelines. The standards are designed to reflect the employment provisions in Chapter 21 of the *Children and Young People Act 2008*.

Standards One and Two are general provisions, applicable to all children and young people under the age of 18.

All other standards are applicable to children and young people under 15 years of age.

### **Standard One – Best interests of the child or young person (under 18 years)**

This standard provides general protection to all children and young people under the age of 18. This standard specifies that employment must not be contrary to the best interests of a child or young person. Important considerations for ensuring that employment is not contrary to the best interest of a child or young person are provided.

### **Standard Two – Other Commonwealth and Territory Laws (under 18 years)**

This standard refers to the obligation of employers to comply with other relevant Commonwealth and Territory legislation when employing children and young people.

### **Standard Three – Developmental competency (under 15 years)**

This standard applies to children and young people under 15 years of age. The standard expands on the need to ensure that employment is appropriate to the development of a child or young person and acknowledges that developmental

competency may differ in accordance with the specific needs of a child or young person and that two people of the same biological age may have differing levels of development.

The standard includes consideration for physical, emotional and social development. The level of responsibility given to a child or young person needs to be consistent with their developmental competency.

Consideration of societal expectations, particularly awareness of what is appropriate for a child or young person at various ages, is included. A provision that employment must not negatively impact on a child or young person's education or capacity to benefit from an education has been incorporated.

#### **Standard Four – Consent (under 15 years)**

This standard outlines the consent responsibilities of children and young people, parent / guardians and employers.

Informed written consent by a parent / guardian is required to employ a child or young person under 15 years old. Consent is also needed from the child and young person themselves in order to commence employment.

Informed written consent places an obligation on employers to provide adequate information to inform a parent or guardian.

#### **Standard Five – Duty of Care (under 15 years)**

Subsections 5.1 to 5.6 of this standard relate to supervision of children and young people in employment. Supervision requirements vary for children and young people at differing ages. Requirements differ if the work involves door to door sales or is out of doors after dark.

Subsections 5.7 to 5.14 relate to the employment environment which employers are required to provide for children and young people, with consideration for health and safety, access to toileting facilities, change facilities, rest areas, access to water and safe food storage.

Subsections 5.15 and 5.16 relate to access to a child or young person's parent/guardian, including telephone access. This specifically applies in the event of a child or young person being ill or injured.

Subsections 5.17 to 5.19 refer to the performance management requirements of employers, including induction and training. These provisions stipulate that employers must not subject a child or young person to intimidating or harassing behaviour, or allow others to subject a child or young person to such behaviour.

#### **Standard Six – Hours of Work (under 15 years)**

This standard relates to restrictions on working hours for children and young people under 15 years of age. The standard outlines the maximum hours of work each day according to age. Additionally, provisions exist for the Director-General to allow for special arrangements to the maximum hours of work in a day on a case by case basis. The authority must continue to consider the other employment standards.

Rest requirements and shift arrangements are included for the employment of children and young people under 15 years of age before authorisation is provided.

**Standard Seven – Travel (under 15 years)**

This standard outlines an employer’s responsibility to ensure a child or young person is able to travel to and from work in safety.

**Standard Eight – Risk (under 15 years)**

This standard outlines the prohibition on employing children or young people under 15 years of age in high risk employment.

**Standard Nine – Family Business (under 15 years)**

This standard explains that children and young people employed in family businesses are protected by the provisions of the *Children and Young People Act 2008* with a key additional requirement that the 10 hours per week limit on working hours also applies to children and young people employed in family businesses.

**Standard Ten – Record Keeping (under 15 years)**

This standard outlines the record keeping requirements of employers in regard to the employment of children and young people.