



COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: AUSTRALIA

THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2002 and 2004 Annual Reviews (ARs).	
	Involvement of Employers' and Workers organizations in the reporting process	YES, according to the Government: Involvement of the Australian Chamber of Commerce and Industry (ACCI) and the Australian Council of Trade Unions (ACTU) through communications of government's reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	NIL	
	Workers' organizations	NIL	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Australia ratified in December 2006 the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, it has not ratified the Minimum Age Convention, 1973 (No. 138) (C. 138).
		Ratification intention	<p>No, according to the Government, ratification of C. 138 is not possible for technical reasons.</p> <p>2008 AR: The Government indicated that while Australian law and practice fully meets the objectives of C.138, Australia is currently unable to ratify it due to technical compliance reasons.</p> <p>2007 AR: According to the Government: Ratification of C.182 by Australia can be expected by the end of 2006. [ratification was registered on 19 December 2006.]</p> <p>Commonwealth Government – Government legislation is fully compliant with C.182.</p> <p>New South Wales (NSW) – The NSW Government is fully supportive of ratification of C.182 and NSW legislation is in compliance with C.182.</p> <p>Victoria - The Victorian Government strongly supports C.182 and registered agreement to ratification with the Federal Government on 1 December 2000. Victorian legislation is in compliance with C182.</p> <p>Queensland – The Queensland Government is fully supportive of ratification of C.182 and Queensland legislation is in compliance with C.182.</p>

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex

			<p>Western Australia – The Western Australian Government is fully supportive of ratification of C.182 and Western Australian legislation is in compliance with C.182.</p> <p>South Australia – The South Australian Government is fully supportive of ratification of C.182 and South Australian legislation is in compliance with C.182.</p> <p>Northern Territory –The Northern Territory Government is fully supportive of ratification of C.182 and Northern Territory legislation is in compliance with C.182.</p> <p>Australian Capital Territory (ACT) – ACT Government is fully supportive of ratification of C.182 and ACT legislation is in compliance with C.182.</p> <p>Tasmania – The Tasmanian Government is fully supportive of ratification of C.182 and as of 1 January 2006, Tasmanian legislation is in compliance with C.182.</p>
	<p>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</p>	<p>Constitution</p>	<p>NIL.</p>
		<p>Policy, legislation and/or regulations</p>	<p>2007 AR: C182 Commonwealth Government – Federal Government legislation is fully compliant with C.182 and meets the objectives of C.182.</p> <p>NSW – NSW legislation is fully compliant with C.182.</p> <p>Victoria - <u>Child Employment Act 2003</u></p> <p>The Child Employment Act 2003 which commenced on 12 June 2004 (World Day against Child Labour) reformed Victoria’s long-standing law relating to the employment of children under the age of 15 years. It introduced maximum daily hours of work, mandated rest breaks, minimum ages for certain occupations, a prohibition against certain types of employment, a provision restricting children to «light work» and a system of police checks for employers and other persons directly supervising children. The Act’s definition of «light work» (reflecting the definition in C.138) is work or any other activity that –</p> <ul style="list-style-type: none"> • is not likely to be harmful to a child’s health or safety, moral or material welfare or development; and • is not such as to prejudice the child’s attendance at school or their capacity to benefit from instruction. <p>Under the Act, employment occurs when a child takes part or assists in any business, trade or occupation carried on for profit. It includes both paid and unpaid work and applies whether the child is engaged as an employee or an independent contractor.</p> <p>The Act provides that with limited exceptions, children between the ages of 13 and 15 years may be engaged only in light work, subject to the employment being authorised through the prescribed child employment permit system. Employment is prohibited during school hours unless a Ministerial exemption from school attendance has been obtained.</p> <p>The minimum age of employment does not apply to the employment of children in a family</p>

		<p>Policy, legislation and/or regulations</p>	<p>business or in the entertainment industry, and permits are not required for children employed in a parent's family business. Nevertheless, various other protections of the Act do apply to children in these categories.</p> <p><u>Mandatory Code of Practice for the Employment of Children in Entertainment</u></p> <p>In the legislative review leading up to Child Employment Act 2003 it was recognised that the entertainment industry was a special case and required separate treatment. The industry was therefore specifically exempted from the hours, rest break and minimum age provisions. In order to more appropriately regulate the employment of children under 15 years in the industry, the Act required the responsible Minister to make all reasonable efforts to make a mandatory code of practice within 12 months of the commencement of the Act.</p> <p>The Act also required the Minister to consult with representatives of employers and employees in the entertainment industry and with relevant Government agencies before making the code.</p> <p>Accordingly, the Minister for Industrial Relations made the Mandatory Code of Practice for the Employment of Children in Entertainment in June 2005, and the Code came into effect on 1 November 2005. The Code regulates matters such as:</p> <ul style="list-style-type: none"> • 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; • a prohibition on inappropriate roles or nudity; • specific provisions for babies. <p><u>Justice Legislation (Sexual Offences and Bail) Act 2004</u></p> <p>The Justice Legislation (Sexual Offences and Bail) Act 2004 introduced amendments into the Crimes Act 1958 to strengthen Victoria's laws against the commercial sexual exploitation of children under 18.</p> <p>Among other things, the Justice Legislation (Sexual Offences and Bail) Act amended the Crimes Act 1958 by amending existing child pornography offences and creating new offences relating to involving children in sexual performances. These measures have strengthened Victoria's laws against the commercial sexual exploitation of children for the purposes of compliance with C.182.</p> <p><i>Queensland</i> - The Queensland Government has enacted the <i>Child Employment Act 2006</i>, effective from 1 July 2006. The purpose of this Act and its supporting Regulation is to ensure that work does not interfere with children's schooling and that children are prevented from performing work that may be harmful to their health or safety or their physical, mental, moral or social development.</p>
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		<p>Legislation, regulations and/or policy</p>	<p>Key features of the Act and proposed regulation include:</p> <ul style="list-style-type: none"> • general minimum working age tied to compulsory schooling requirements while allowing children below this age to work only in certain circumstances and with various restrictions imposed; • restrictions on working hours for children yet to complete compulsory schooling. <p>The legislation is part of a package of reforms which includes a Child Employment Guide to explain the new laws. The Act is supported by a workplace health and safety code of practice for young workers.</p> <p>The Workplace Health and Safety Queensland Children and Young Workers Code of Practice covers both young workers under 18 years of age, and children who visit workplaces. The main features of the code are:-</p> <ul style="list-style-type: none"> - identification of hazards of particular risk to young workers such as manual tasks, noise, chemicals, industrial equipment, machinery and workplace harassment. - a risk management approach for young workers emphasising workplace health and safety induction, training and supervision practices that should be followed. <p>A Code of Practice for the Employment of Young People in the Entertainment Industry will be introduced by the end of 2006.</p> <p>Western Australia - The Western Australian Government has recently amended legislation further restricting the employment of children. The legislation prohibits the employment of children under the age of 15 except under strict conditions as specified under the Children and Community Services Act 2004.</p> <p>This legislation is provided additional support by the School Education Act 1999. This legislation has recently been amended taking the compulsory school age up to 16 as of 1 January 2006. This is further increasing to 17 on 1 January 2008.</p> <p>South Australia – South Australian legislation is fully compliant with C.182.</p> <p>Northern Territory – Northern Territory legislation is fully compliant with C.182.</p> <p>ACT – ACT legislation is fully compliant with C.182.</p> <p>Tasmania – As of 1 January 2006, Tasmanian legislation is fully compliant with C.182.</p>
	<p>Exercise of the principle and right</p>	<p>Judicial decisions</p> <p>Compulsory education</p>	<p>NIL</p> <p>2007 AR: Commonwealth Government – YES, the age of free compulsory education for both boys and girls at the end of this period is 15 years, with a general requirement of 9 years of grades or instruction.</p> <p>Victoria - Under the Education Act 1958 schooling is currently compulsory for all children between the ages of 6 and 15 years. The Education Act will be repealed by the recently enacted Education and Training Reform Act 2006 when it comes into operation, by 31 December 2007 at the latest.</p>

	<p>Exercise of the principle and right</p>		<p>The main purpose of the Education and Training Reform Act is to reform the law relating to education and training in Victoria by providing for a high standard of education and training for all Victorians.</p> <p>Among other things the Act makes clear the obligation of parents to ensure their child receives an education – at school or at home – up until 16 years of age.</p> <p>The Government has invested significant resources over the past six years in strategies to increase the year 12 or equivalent completion rate in Victoria. Raising the minimum school leaving age to 16 years complements these efforts and sets the expectations of the government and broader community.</p> <p>Queensland - Queensland compulsory schooling requirements apply until the child completes year 10 or turns 16 years, whichever happens first.</p> <p>- The <i>Youth Participation in Education and Training Act 2003</i> makes provision for young people’s compulsory participation in education and training. The compulsory participation phase starts when the person stops being of compulsory school age. This phase ends when the person:</p> <ul style="list-style-type: none"> • gains a senior certificate or certificate III; • or has participated in eligible options for 2 years after the person stopped being of compulsory school age; • or turns 17. <p>- if a young person enters full-time employment (at least 25 hours per week) during the compulsory participation phase, this will be deemed to be complying with the participation requirements.</p> <p>Western Australia - YES. In Western Australia the age of free compulsory education for both boys and girls at the end of this period is 16 years, with a general requirement of 10 years of grades or instruction. This will increase to 17 years effective from 1 January 2008.</p> <p>Tasmania – From 2008 young people in Tasmania who have completed year 10 or turned 16 years will be required to participate in further education or training for further two years; or until they have gained a certificate III vocational qualification; or they have turned 17 years.</p> <p>NSW, South Australia, Northern Territory, ACT – No update in these jurisdictions.</p>
<p>Minimum Age</p>		<p>2007 AR: C.138 Commonwealth Government - In relation to Minimum Age, it should be added that:</p> <p>Australian law and practice meets the objectives of C. 138. This is achieved through State and Territory laws, which require children, aged up to 15 years (16 in Tasmania) to attend school; and laws providing for minimum ages for employment in selected occupations, child welfare, and occupational health and safety. These laws are implemented through State and Territory Government agencies including departments of education, community services, workplace relations, and health and safety. Enforcement is achieved through a variety of measures, including</p>	

			<p>the use of inspection services, reference of child welfare matters to special children’s courts, and the imposition of fines and other penalties as appropriate.</p> <p>Queensland - The Government of Queensland has advised that it may experience some compliance difficulties with respect to the minimum age provisions of C.138 as the Child Employment Act 2006 allows children below the age of 13 years to work on rare occasions.</p> <p>Western Australia – The principle of effective abolition of child labour is recognized by the Western Australian Government. The Children and Community Services Act 2004 and The School Education Act 1999 demonstrate compliance in law and practice with the spirit of C.138 and C.182. That is, children are not exploited as a source of labour and are free to work so long as they are not engaged in the worst forms of child labour.</p> <p>These laws are implemented through State Government agencies including departments of education, community services, labour relations, and health and safety. Enforcement is achieved through a variety of measures, including the use of inspection services and the imposition of fines and other penalties as appropriate</p> <p>South Australia – No changes to South Australian Law and Practice. It should be noted that in 2005, significant amendments were made to both the Occupational Health and Safety and Welfare Act 1986 and the Fair Work Act 1994.</p> <p>Northern Territory – No new comments, as at time of reporting, no changes in legislation with regard to C138 have been enacted.</p> <p>NSW, Victoria, ACT, Tasmania – No update in these jurisdictions.</p>
	<p>Exercise of the principle and right</p>	<p>Worst Forms Child Labour</p>	<p>Australia ratified C.182 in December 2006, after having sent its report under this principle and right (PR).</p> <p>2007 AR -</p> <p>C.182</p> <p>Commonwealth Government – Child prostitution and child pornography are prohibited under Federal, State and territory laws, including the criminal Codes, which address the worst forms of child labour. Sale and/or trafficking of children, child pornography, involvement of children in illicit activities, (in particular, production and trafficking of drugs prostitution) are believed or suspected to exist.</p> <p>Victoria – <u>Child Employment Act 2003</u></p> <p>The Child Employment Act 2003 makes it unlawful to employ a child in «prohibited employment» which includes –</p> <p>(a) door-to-door sales; (b) deep-sea fishing; and (c) employment on a building or construction site prior to lock-up stage.</p> <p>These specific forms of employment have been prohibited for children under the age of 15 years in all circumstances.</p>

			<p><u>Justice Legislation (Sexual Offences and Bail) Act 2004</u></p> <p>Amendments to the Crimes Act 1958 by the Justice Legislation (Sexual Offences and Bail) Act 2004 have strengthened Victoria's laws against the commercial sexual exploitation of children under the age of 18 years for the purposes of compliance with C. 182.</p> <p><i>Queensland</i> - In addition to existing safeguards the Queensland Government is currently drafting a regulation to prohibit children under 18 years of age working in adult entertainment and related activities.</p> <p><i>Western Australia</i> - The <i>Children and Community Services Act 2004</i> prohibits the employment of children in an indecent manner including the making of pornographic films and photographs and prostitution.</p> <p>The Criminal Code prohibits the sale and/or trafficking of drugs, debt bondage, serfdom, forced or compulsory labour and forced recruitment for armed conflict.</p> <p><i>NSW, South Australia, Northern Territory, ACT, Tasmania</i> - No update in these jurisdictions.</p>
	<p>Exercise of the principle and right</p>	<p>Special attention to particular situations</p>	<p>2007 AR:</p> <p><i>Queensland</i> – The Commission for Children and Young People Act 2000 requires the Commission in undertaking its statutory functions to give priority to the needs and interests of children and young people: (i) who are not able to protect their rights, interests and well-being; (ii) for whom there is no appropriate person to act on their behalf; (iii) who are disadvantaged because of a disability, geographic isolation, homelessness or poverty; or (iv) who are, or may enter, out-of-home care or detention.</p> <p>The Office for Youth within the Department of Communities provides Youth at Risk Outreach Services (YAROS) targeted at young people aged 12 to 25 who are identified as 'at risk' through a range of factors including homelessness, involvement in survival sex, and illicit drug use. YAROS aims to divert young people from risk-taking behaviour and to prevent their entry into the formal sex industry.</p> <p>YAROS conducts a range of prevention and early intervention activities that use a harm-minimisation approach, including information and referral, direct assistance, specialist counselling, support groups, health education (particularly for safe sex and drug use), and needle exchanges.</p> <p>There are seven Youth at Risk Outreach Services located across the state, with two services located in regional areas. Each service conducts activities according to the specific needs of the young people in the local area.</p> <p><i>Western Australia</i> - In Western Australia, young indigenous people are provided with the same opportunities for education, social and skills development as other children.</p> <p><i>ACT</i> – According to the Government of the Australian Capital Territory: the indigenous young people by providing them with the same opportunities for education, social and skills development as other children.</p>

			<p><i>Commonwealth Government, NSW, Victoria, South Australia, Northern Territory, Tasmania</i> – No update in these jurisdictions.</p>
		<p>Information/Data collection and dissemination</p>	<p>2007 AR: <i>Commonwealth Government</i> – According to Federal Government: the Australian Bureau of Statistics (ABS) population census currently collects work force data for children over 15 years. The ABS is currently considering expanding this to younger ages in response to reviews of child labour in various states.</p> <p><i>Victoria</i> - The Victorian Government has requested the Australian Bureau of Statistics (ABS) to collect child labour data for children under the age of 15 years and has contributed to development of a survey tool for use by the ABS in 2006.</p> <p><i>Western Australia</i> - The Australian Bureau of Statistics (ABS) population census collects work force data for children over 15 years.</p> <p><i>NSW, Queensland, South Australia, Northern Territory, ACT, Tasmania</i> – No update in these jurisdictions.</p>
	<p>Monitoring, enforcement and sanctions mechanisms</p>	<p>2007 AR: <i>Victoria</i> - Child Employment Officers (CEOs) have been appointed under the Child Employment Act 2003 with the primary function of providing information to employers, parents, children, schools and the community about the Act, and investigating applications for permits.</p> <p>CEOs are also responsible for ensuring compliance with the legislation.</p> <p>Accordingly, their powers include a right of entry to inspect a workplace and the right to require production of documents. CEOs are authorised to vary or cancel a child’s employment at any time by written notice.</p> <p>The Act provides a range of offences with appropriate penalties.</p> <p>CEOs work co-operatively with officers of WorkSafe Victoria to ensure that the occupational health and safety of children in employment is protected.</p> <p><i>Queensland</i> - The Queensland Government reports that there is an ongoing role for industrial inspectors who have direct contact with workplaces and are able to assess the situation with regard to child labour.</p> <p>Furthermore, the inspectors have been empowered under the Child Employment Act 2006. Inspectors functions under this Act are:</p> <ul style="list-style-type: none"> • to monitor compliance with the Act; • to investigate and, when necessary, take action to deal with alleged contraventions of the Act; and • inform children, parents and employers of their rights and obligations. <p><i>Western Australia</i> - Industrial Inspectors are responsible for enforcing the employment aspects of the <i>Children and Community Services Act 2004</i>. To date there have been no prosecutions under this legislation relating to the employment of children.</p> <p><i>South Australia</i> – According to the South Australia Government: the Industrial and Employee Relations Act (IER Act), 1994 provides that an employer could be subject to prosecution in case of breach of its disposition. Furthermore, the Government indicates that a number of bodies have been created to realize the PR: (i) the Industrial Relations Court of South Australia; (ii)</p>	

		<p>the Industrial Relations Commission of South Australia; (iii) the Industrial Relations Advisory Committee; (iv) the Employee Ombudsman; (v) the inspectors located in the Industrial Services Division and the Occupational Health, Safety and Welfare Advisory Committee.</p> <p><i>Northern Territory</i> – The Northern Territory Education Act foresees penalty (ranging from fines to imprisonment) for the employment of a child of compulsory school age.</p> <p><i>Commonwealth Government, NSW, ACT, Tasmania</i> - No update in these jurisdictions.</p>
	Involvement of the social partners	<p>2007 AR: <i>Victoria</i> - The Child Employment Act 2003 required the responsible Minister to consult with representatives of employers and employees in the entertainment industry and with relevant Government agencies before making the Mandatory Code of Practice for the Employment of Children in Entertainment.</p> <p>The Government consults with a wide range of stakeholders in developing legislation.</p> <p><i>Queensland</i> - In 2001 the Queensland Government established the Commission for Children and Young People, now the Commission for Children and Young People and Child Guardian, to promote and protect the rights, interests and wellbeing of children in Queensland.</p> <p>The Young Workers' Advisory Service (YWAS) was established in April 2002 to assist workers under the age of 25 years with queries relating to their working entitlements.</p> <p>The service offers advice and represents young workers in cases taken to the Queensland Industrial Relations Commission or Queensland Anti-Discrimination Commission on workplace issues such as bullying, discrimination, sexual harassment or dismissal.</p> <p><i>Western Australia</i> - Consultation with key stakeholders has occurred in the development of the <i>Children and Community Services Act 2004</i>. The consultation has been with not only government and non-government areas but also children, families and communities.</p> <p><i>Commonwealth Government, NSW, South Australia, Northern Territory, ACT, Tasmania</i> - No update in these jurisdictions.</p>
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Promotional activities	<p>2007 AR: <i>Victoria</i> - A primary function of Child Employment Officers appointed under the Child Employment Act 2003 is to provide information to employers, parents, children, schools and the community about the Act.</p> <p><i>Queensland</i> - In addition to offering advice and representation to young workers, the Queensland Young Workers' Advisory Service (YWAS) educates young people at schools and TAFE colleges about their workplace entitlements, rights and obligations.</p> <p><i>Western Australia</i> - The Department of Consumer and Employment Protection (DOCEP) is empowered with the authority to investigate and enforce laws dealing with the employment of children. As such DOCEP also undertakes an educational role. DOCEP has information available on their website and has emailed interested parties via the newsletter subscription service to inform the public of Western Australia about changes such as the new laws affecting the employment of children. Key employee and employer associations are also notified in writing of laws affecting employment of children.</p> <p><i>Commonwealth Government, NSW, South Australia, Northern Territory, ACT, Tasmania</i> – No update in these jurisdictions.</p>

	Special initiatives/Progress	2007 AR: <i>Commonwealth Government</i> - Australia has made firm progress towards ratification of C.182. Law and practice in all jurisdictions now complies with the Convention. [Report filed before the ratification of C.182]	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL
		Workers' organizations	NIL
	According to the Government	NIL	
TECHNICAL COOPERATION	Request	NIL	
	Offer	NIL	
EXPERT-ADVISERS' RECOMMENDATIONS/OBSERVATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) were concerned that few governments, such as Australia (and three other governments), had indicated their current lack of effort to ratify C.138 and/or C.182. They recalled the following: «(...) in last year's Introduction we noted remarks from some constituents (the governments of Australia and New Zealand and Business New Zealand – BNZ) concerning the potentially negative effect of ratifying Convention No. 138 for young persons to enter the labour market. We pointed out that these concerns can be adequately addressed through the various possibilities inherent in the principle, for instance light work, or vocational training and apprenticeship. It is crucial to discuss this in tripartite consultation in each country, and we note that both of the social partners in New Zealand are commenting on this issue: while BNZ opposes the ratification of Convention No. 138, the New Zealand Confederation of Trade Unions (NZCTU) recommends ILO assistance to seek possible legislative action to allow light work from 13 years of age and set the general minimum age at 16 years, in line with Convention No. 138. We hope there will be continued efforts by the Office and, in particular, the International Programme on the Elimination of Child Labour (IPEC) on this issue.» (Cf. Paragraph 57 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2005 AR: The IDEAs listed Australia among the countries where some efforts are being made in terms of research, advocacy, activities, social dialogue, national policy formulation, labour law reform, preventive, enforcement and sanctions mechanisms and/or ratification. They also mentioned the following: «Australia, New Zealand and the United States have expressed their intention to renew their assistance to other States and international organizations to combat child labour, including in its worst forms. Their assistance ranges from financial aid to participation in international forums. It is important to maintain a continuity of social programmes to combat child labour. Once programmes are interrupted, it is difficult to maintain the momentum. The sustainability of such programmes will be enhanced with the active support of employers' and workers' organizations» (Cf. Paragraphs 13 and 234 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>		
GOVERNING BODY OBSERVATIONS/RECOMMENDATIONS	NIL		