

COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW

Australia - 2021

THE EFFECTIVE ABOLITION OF CHILD LABOUR

REPORTING

Fulfilment of Government's reporting obligations

138 Fulfilment of Government's reporting obligations

Yes

Involvement of Employers' and Workers organizations in the reporting process

91. When preparing its report, the Government consulted [10.1]

a) The most representative employers organizations, b) The most representative workers organizations, c) The competent authorities?

94. Please describe the consultation process(es). [10.2]

The Australian Government regularly consults with the social partners through the International Labour Affairs Committee which meets tri-annually, as well as through ad hoc consultations. Social partners have been consulted on, and expressed support for, the Australian Government's decision to progress ratification of the Forced Labour Protocol.

OBSERVATIONS BY THE SOCIAL PARTNERS

Employers' organizations

95. Did employers organizations comment on the report? [11a]

No

<p>97. Please provide URL(s) to the responses and comments of the employers and workers organizations to the above questions, if you have received them</p>	<p>N/A</p>
<p>Workers' organizations</p>	
<p>96. Did workers organizations comment on the report? [11b]</p>	<p>No</p>
<p>97. Please provide URL(s) to the responses and comments of the employers and workers organizations to the above questions, if you have received them</p>	<p>N/A</p>
<p>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</p>	
<p>Ratification</p>	
<p>Ratification intention of C 138</p>	
<p>21. What are the prospects for ratification of Convention No. 138?</p>	<p>Likely</p>
<p>23. What, if any, are the impediments to the ratification of Convention No. 138?</p>	<p>On 7 September 2020, the then Attorney-General of Australia agreed to progress ratification for Convention No. 138. The Australian Government continues to take advice on the interaction of work health and safety laws, compulsory schooling laws, sector specific laws and child employment legislation, to ensure that all jurisdictions are fully compliant with the Convention. Under Australia's long standing treaty ratification policy, a treaty will not be ratified unless domestic law and practice give effect to it and all jurisdictions have indicated their support for ratification.</p>

Recognition of the principle and right (prospect(s), means of action, basic legal provisions)

Policy, legislation and/or regulations

24. Have there been changes in law and practice in your country as regards minimum age for admission to employment?

Yes

25.b. Legislative developments

ACT: Labour Hire Licencing Act 2020 (ACT): The LHL Act does not explicitly mention child labour and/or forced labour, however the objectives of the LHL Act are to: • protect [all] workers from exploitation by labour hire providers and ensure labour hire service providers meet their workplace obligations and responsibilities; and • promote the integrity of the labour hire service industry and promote responsible industry practice. Under the ACT labour hire licencing scheme, labour hire providers are required to be licensed and as part of the licensing requirements must demonstrate a history of compliance with workplace laws and standards which would include obligations in relation to the employment of young persons. Human Rights (Workers Rights) Amendment Act 2020: Under the Human Rights Act 2004 (ACT) the Territory recognises fundamental human rights in its decision-making processes. The Act requires that any new legislation is assessed by the Attorney-General on its compatibility with human rights as outlined within the Human Rights Act. The Human Rights (Workers' Rights) Amendment Act amends the Human Rights Act to explicitly include workers' rights within section 27B. These rights are drawn from the International Covenant on Economic Social and Cultural Rights, Articles 2 (2), 6 (1), 7, 8 and the

International Labour Organisation Right to Organise and Collective Bargaining Convention, Article 1. The effect of this amendment is that ACT public authorities must act in accordance with workers' rights outlined in the Act, particularly the right of workers to 'choose their occupation or profession freely'. This extends to requirements regarding the assessment of upcoming Government Bills.

Northern Territory: The Northern Territory Procurement Code – a supplier code of conduct ("the Code") was released on 27 November 2020. The Code applies to all suppliers who wish to participate in business tendering for the provision of goods and services to the NT Government. To address the public and private sector's due diligence obligations, any person who has reasonable suspicion of a supplier's breach of the Code may report that breach to the government agency who is responsible for the procurement or related contract.

Tasmania: In October 2019, s192 of Tasmania's Criminal Code Act 1984, in regards to stalking, was broadened to also encompass bullying. Prior to 2020, young people were required to continue participating in education or training past the end of Year 10, until they turned 17 years of age. Since 2020, all students are now required to participate in education and training until they complete Year 12, attain a Certificate III, or they turn 18 years of age (whichever occurs first). See the Education Act 2016. On 2 October 2019, amendments to the Children, Young Persons and their Families Act 1997 came into force with respect to the informing of concern about abuse or neglect or certain behaviour. Members of the clergy of any church or religious denomination and members of the Parliament of Tasmania are now listed as prescribed persons under the Act for the purpose of informing of concern about

	<p>abuse or neglect or certain behaviour (see s14(1)(ja) and (jb)). Further amendments mean members of the clergy of any church or religious denomination are not entitled to refuse to comply with s14(2) on the grounds that he or she formed the belief or suspicion or gained the knowledge as a consequence of information communicated to that member of the clergy during a religious confession. (See s14(7)). Copies of Tasmanian legislation can be found at: https://www.legislation.tas.gov.au/.</p>
<p>25.a. Policy initiatives</p>	<p>South Australia In April 2020, the South Australian (SA) Government launched the Strong Futures South Australian Youth Action Plan 2020-2022 (the plan) which comprises 4 priority areas. Priority Area 1 - 'Earn and Learn' - focuses on ensuring young people have the necessary skills and support to complete schooling and transition to further education and training, or employment. The plan sets out strategies for addressing job security, low pay rates and how young people are treated in the workplace, among other things. The SA Department of Human Services (DHS) led development of the plan and will monitor and report on the plan's implementation. Although there is no SA legislation that specifies a generally applicable minimum age of employment, the Education and Children's Services Act 2019 (the Act) does effectively limit the amount and impact of employment for children. The Act, and the Education and Children's Services Regulations 2020 (SA) (the Regulations) that support the Act, commenced on 1 July 2020. The Act and Regulations set out the framework for the compulsory education of children in SA. Section 60(1) of the Act requires a child of compulsory school age to be enrolled in school. Section 68(1) of the Act requires a child of compulsory school age to attend</p>

the school at which they are enrolled every day, and for such parts of every day, that instruction is provided for the child at school. A child of compulsory school age means a child of or above six years of age but less than 16 years of age. Subject to sections 60 and 68 of the Act, if a child of compulsory school age is not enrolled or fails to attend school as required, each person who is responsible for the child is guilty of a separate offence carrying a maximum penalty of \$5,000. Section 61(1) of the Act requires a child of compulsory education age to be enrolled in an approved learning program, or in a combination of approved learning programs, unless they have achieved a qualification under an approved learning program (s61(2)). Section 69(1) of the Act requires a child of compulsory education age to participate in an approved learning program in which they are enrolled in every day, and for such parts of every day, that instruction is provided in relation to the program. A child of compulsory education age means a child who is 16 years. Subject to ss61 and 69 of the Act, if a child of compulsory education age is not enrolled or fails to participate in an approved learning program as required, each person who is responsible for the child is guilty of a separate offence carrying a maximum penalty of \$5,000. Section 74 of the Act prohibits employers from employing children of compulsory school age or compulsory education age during hours that the child is required to attend school or participate in an approved learning program or in any labour or occupation that renders, or is likely to render, the child unfit to attend school or participate in an approved learning program or unable to obtain the proper benefit from such attendance or participation. The exception is if the employment forms part of an approved learning program or is prescribed by the

	<p>regulations. A breach of s74 is an offence that carries a maximum penalty of \$10,000. Section 75 of the Act requires the head of a school or an approved learning program to notify the Chief Executive if a student of the school or approved learning program is persistently failing to attend school or to participate in the approved learning program. Section 133 allows for the Minister to exempt a specified person, or a specified class of persons, from the operation of a provision or provisions of this Act. Some industry-specific work, such as serving liquor (s50 of the Liquor Licensing Act 1997) is prohibited for children under 18 in SA.</p>
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Exercise of the principle and right

Compulsory education and minimum age

25.a.	See above
25.b.	See above

Special attention to particular situations

<p>29. Has particular attention been paid to specific groups of population, workers or sectors of activity in the efforts to promote effective abolition of child labour?</p>	Yes
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<p>29.1. Please specify</p>	<p>Commonwealth: Vulnerable workers (including young workers) is an enduring priority area for the Fair Work Ombudsman (FWO). FWO priorities for 2020-21 are available at: https://www.fairwork.gov.au/about-us/our-role-and-purpose/our-priorities. The FWO website and social media channels provide a range of information for young workers regarding workplace</p>
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rights and responsibilities. This information is be found at: <https://www.fairwork.gov.au/find-help-for/young-workers-and-students> The FWO has also developed a range of education tools and resources to assist young workers to understand their workplace rights and entitlements. This includes: • online courses, information and guides targeted at young people; • young worker videos developed in partnership with the Foundation for Young Australians; and • a smartphone app that makes it quick and easy for young workers to record and store the hours they work, plus other information about their employment. Western Australia: Please refer to responses above. Remaining Jurisdictions: No change.

Monitoring, enforcement and sanctions mechanisms

25.c. Labour inspection /monitoring

Commonwealth Human trafficking and slavery The Fair Work Ombudsman (FWO) has established operational processes, created educational resources and delivered training to ensure that staff identify and respond to potential instances of human trafficking and slavery. This includes: • collaborating with the AFP to develop and deliver a tailored training package, to support inspectors to identify and refer suspected instances of human trafficking and slavery; and • providing training and operational guides to Fair Work Inspectors that help them to identify and refer human trafficking and slavery matters to the AFP. Queensland: The Queensland Office of Industrial Relations (OIR) administers the Industrial Relations Act 2016 (the IR Act) and provides an active industrial inspectorate to enforce and monitor compliance with the IR Act and the Child Employment Act 2006 (Qld) (CE Act). There is an ongoing

	<p>role for industrial inspectors who have direct contact with workplaces and are able to assess the situation with regards to alleged contraventions. In the 2020-21 reporting period, OIR conducted 31 audits under the CE Act, and has conducted 28 from 1 July 2021 to 17 November 2021. There were no prosecutions of child exploitation commenced under the CE Act. Activities under the CE Act: Activity 2018-19 2019-20 2020-21 1 July 2021 – 17 November 2021 Audits 26 33 31 28 Complaints 6 5 3 0 Infringements 0 0 0 0 Prosecutions 0 0 0 0 Western Australia: The Western Australian Department of Mines, Industry Regulation and Safety (DMIRS) is responsible for ensuring that all businesses in Western Australia comply with the legal requirements for when children can work under the Children and Community Services Act 2004 (CCS Act). DMIRS undertook 531 inspections concerning the employment of children during the period 1 July 2019 to 30 June 2021 (including the 421 targeted inspections discussed in Question 3 below). Of these 528 have been concluded with no breaches found. In three cases breaches to the CCS Act were found, and rectified without formal action being required. There were no prosecutions in the reporting period.</p>
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Special initiatives-Progress

<p>28. Have any initiatives resulted in successful examples or good practice in promoting the effective abolition of child labour?</p>	<p>Yes</p>
<p>28.1. Please specify</p>	<p>Commonwealth: No change. Western Australia : The recent proactive compliance campaign about the employment of children in the takeaway and fast food industry has highlighted the importance of child employment laws and</p>

been successful in raising employer knowledge about the requirements of the Children and Community Services Act 2004. South Australia: Please see point above relating to the Strong Futures South Australian Youth Action Plan 2020-2022 which sets out the South Australian Government's commitments to ensuring young South Australians are happy, healthy and equal contributors to the state's social and economic prosperity. Remaining Jurisdictions: No change.

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT

According to the social partners

Employers' organizations

30. What are the current challenges and difficulties faced in the effective abolition of child labour?

No change.

Workers' organizations

30. What are the current challenges and difficulties faced in the effective abolition of child labour?

No change.

According to the Government

30. What are the current challenges and difficulties faced in the effective abolition of child labour?

No change.

TECHNICAL COOPERATION

Request

31. What are the technical cooperation needs in your country to promote the effective abolition of child labour?

No change.