

# EMPLOYMENT OF CHILDREN

## Overview of Legislation

**Effective November 2019**

***Disclaimer:** Please note that this information is not intended to constitute legal advice, and is provided by HRplus as general information only. You should not rely on it without first verifying the accuracy, completeness and currency of the material, its relevance to your individual circumstances and, where appropriate, obtaining specific legal advice.*

### Overview & Scope

This document seeks to summarise key aspects of current legislation governing the employment of children in each State and Territory relevant to gymnastics clubs<sup>1</sup>.

Please note that the information contained in this document

- provides information that is general in nature and may not consider legal definitions, legislative exceptions and case law;
- should be read in conjunction with National and State-based employment-related legislation including Workplace Health and Safety, the Fair Work Act (Federal) and Modern Awards (i.e. Fitness Industry Award).
- does not cover Child Education requirements related to attending school or accredited school-based learning programs such as apprenticeships, traineeships or work experience; and
- does not cover requirements that may fall under Child Protection legislation.

Please also check with your State gymnastics organisation to confirm affiliation requirements that may apply to children working in gymnastics clubs.

## NEW SOUTH WALES

### Legislation

Children & Young Persons (Care and Protection Act) 1998  
Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015  
Industrial Relations (Child Employment) Act 2006

### Minimum age for employment of children

Children can be employed at any age.

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<sup>1</sup> The information contained in this document was prepared in November, 2019. As legislation does change, it is important to check for the latest information with relevant State authorities or legal adviser.

## **Hourly restrictions on engaging children**

Hourly restrictions apply to children under 15 years including who receive remuneration or other material benefit including that children must be employed

- outside school hours;
- no more than 1 shift per day;
- no more than 4 hours on a school day;
- no more than 50 hours per week of school/work combined;
- no later than 9pm if the child has school the next day;
- no sooner than 12 hours after the last work shift; and
- with at least 1 hour rest break every 4 hours plus appropriate rest breaks during each 4 hour shift.

## **Other Restrictions**

Several additional requirements apply when employing children under 15 years under the CYPCP Act and Regulations relating Children's Employment

- record keeping;
- incident notification;
- notification of roster changes;
- no punishment;
- right to parental contact;
- provision of nutritious food and beverages;
- supervision;
- safe travel to and from work;
- toilet provisions;
- extreme climate; and
- injury and illness notification

## **Minimum Wage**

Junior pay rates apply for employees up to 19 years for clubs covered by the Fitness Industry Award. 2010 unless higher rates apply for children under 18 years in an comparable State based award (as applicable).

## **Employer authority to work with children**

A Working with Children Check is not required to be held by employees under 18 years of age.

## **More information**

NSW Office of Industrial Relations - 13 16 28  
Office of the Children's Guardian – (02) 8219 3600  
Working With Children Check – (02) 9286 7247  
Fair Work Ombudsman - 13 13 94

## **Useful web links**

- [waleshttps://www.kidsguardian.nsw.gov.au/children-s-employment/childrens-employment-regulation](https://www.kidsguardian.nsw.gov.au/children-s-employment/childrens-employment-regulation)
- <https://www.safework.nsw.gov.au/resource-library/young-workers-toolkit/employers>
- <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/an-employers-guide-to-employing-young-workers>
- <file:///C:/Users/Linda%20Norman/Downloads/an-employers-guide-to-employing-young-workers-best-practice-guide-7112019.pdf>