



Proposed Child Employment Legislation for South Australia: NRA Submission



Helping Australian Business Grow

NRA

The National Retail Association (NRA) is an industry organisation that provides professional services to the retail and wider service industry throughout Australia. We represent national retail chains, as well as independent retailers, franchisees and other service sector employers.

Our aim is to ensure that businesses within the service sector, whatever their size, have access to specialised knowledge and industry-specific expertise in order to grow and prosper. The NRA is the industry advocate in public policy debates and government relations.

CHILD EMPLOYMENT LEGISLATION

The NRA considers the introduction of additional legislation regulating the employment relationship as unnecessary in the current environment. NRA members, and employers generally, are cognisant of the need for young workers to be protected and nurtured in the workplace. The NRA recognises that as most other states have now introduced legislation concerning child employment, it may be difficult for South Australia to resist going down the same path. If this is the case, the NRA is opposed to any legislation that imposes unnecessary burdens on employers and/or provides a disincentive to youth employment.

South Australia is well positioned to ensure that if child employment legislation is introduced, it will not negatively impact on employers by introducing complexity and unwarranted compliance obligations and costs, while still meeting the goal of providing adequate protections for children.

As many retailers operate across state boundaries, having consistent legislation in the area of child employment is particularly important to avoid confusion and to prevent the imposition of significant compliance cost burdens.

Child employment legislation should not apply to all minors, nor should it seek to significantly alter the terms and conditions of employment that would ordinarily apply under an appropriate industrial instrument. Further, child employment legislation should not seek to supplant the industrial relations laws that apply to an employer in respect of its employees.

The NRA provides the following responses to the issues raised in the discussion paper issued by SafeWork SA.

MINIMUM AGE

The NRA submits that no minimum age requirements need to be imposed. If the South Australian Government is of a view that a minimum age of employment is required, the NRA submits that a minimum age of 13 is appropriate as this is consistent with most other States (Victoria, Queensland and Western Australia). Provided that suitable exemptions exist for work such as newspaper and advertising material delivery, work in the entertainment industry and family businesses or provision of services such as babysitting.

PROHIBITED EMPLOYMENT & ACTIVITIES

The NRA submits that the current restrictions on the employment of minors applicable under existing South Australian legislation offer sufficient protection for young people and that no additional prohibitions are necessary.

AGE RESTRICTIONS ON CERTAIN TYPES OF EMPLOYMENT

The NRA submits that age restrictions on certain types of work are more appropriately dealt with through OHS legislation, as a worker's age may have little or no bearing on the risks associated with certain activities or types of employment.

MAXIMUM HOURS OF WORK

The NRA submits that if any maximum hours of work are to be incorporated, they should apply to children of compulsory school age ("school-aged children") only, as adequate protections already exist in industrial instruments and the *Workplace Relations Act 1996* regarding unreasonable additional hours and overtime.

Any regulated maximum hours of work for school-aged children should be limited to school days and school weeks.

PROHIBITED HOURS

If the South Australian Government is of a view that certain hours of the day should be prohibited for school-aged children, the NRA is not opposed to a prohibition applying between 10pm and 6am.

APPROPRIATE MEAL & REST BREAKS

The NRA submits that where an industrial instrument provides for meal and/or rest breaks, those are appropriate for school-aged children. If there is no relevant industrial instrument, or the industrial instrument does not provide for meal and rest breaks, a school-aged child should receive at least a 30 minute break after the end of each 5 hours of work

APPROPRIATE SUPERVISION

The NRA submits that appropriate supervision is an existing obligation on employers and that no specific provisions are required in this area. If the South Australian Government is of the view that some extension of the existing obligations is required, it should be limited to school-aged children involved in specific work where it would be appropriate to have an adult near to, or in regular contact, with the child.

SPECIAL PROVISIONS FOR TRAINEES & APPRENTICES UNDER THE AGE OF 18

The NRA submits that trainees and apprentices under the age of 18 should be excluded from the operation of any child employment legislation as appropriate protections will already exist in the industrial instruments and training legislation.

PARENTAL CONTACT AND CONSENT ARRANGEMENTS

The NRA submits that if the proposed child employment legislation is to require parental consent prior to employment, it be limited to school-aged children. The NRA also submits that this should be a matter handled directly between the employer and the parent(s) of the school-aged child, without any bureaucratic involvement.

RECORD KEEPING REQUIREMENTS

The NRA submits that sufficient record keeping requirements are imposed by the *Workplace Relations Regulations 2006* and that no further obligations should be placed on employers. If the child employment legislation required parental consent, this record should be kept in accordance with other employment records.

ENFORCEMENT & POWERS OF INSPECTORS

The NRA is not opposed to SafeWork SA enforcing the proposed child employment legislation, with similar powers to those existing under the *Fair Work Act 1994*.

EXEMPTIONS

The NRA submits that a simple mechanism should be included in the proposed child employment legislation to allow employers to seek exemptions in special circumstances. This mechanism should be easily accessible and allow for swift, fair and consistent decision making regarding any exemption applications.

The NRA appreciates the consultative approach adopted by the South Australian Government in the development of the proposed child employment legislation and looks forward to further engagement on this and future issues affecting the retail and service sector in South Australia.