



New South Wales

Children's Guardian Amendment (Child Employment) Regulation 2022

under the

Children's Guardian Act 2019

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children's Guardian Act 2019*.

NATASHA MACLAREN-JONES, MLC
Minister for Families and Communities

Explanatory note

The object of this Regulation is to make further provisions about conditions of an exemption from the requirement to hold an employer's authority under the *Children's Guardian Act 2019* (an **employer's exemption**), including making a failure to comply with a condition of an employer's exemption an offence that may be dealt with by the issue of a penalty notice.

Children's Guardian Amendment (Child Employment) Regulation 2022

under the

Children's Guardian Act 2019

1 Name of Regulation

This Regulation is the *Children's Guardian Amendment (Child Employment) Regulation 2022*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Children's Guardian Regulation 2022

[1] Section 6 Emergency authorisations not subject to Division 2

Omit "*Children and Young Persons (Care and Protection) Regulation 2012*, clause 31B" from section 6(1).

Insert instead "*Children and Young Persons (Care and Protection) Regulation 2022*, section 22".

[2] Section 52 Definitions

Insert in alphabetical order—

employer's exemption—

- (a) has the same meaning as in the Act, section 94(1)(b), and
- (b) to avoid doubt, includes a performer representative exemption.

performer representative exemption means an exemption granted by section 55(1)(a).

[3] Section 56

Omit the section. Insert instead—

56 Condition of employer's authority or exemption—the Act, ss 97(1)(a) and 102(5)

It is a condition of an employer's authority and an employer's exemption that the employer must give the Children's Guardian information about the employment of children by the employer that the Children's Guardian reasonably requires.

[4] Section 58 Code of practice

Omit section 58(2). Insert instead—

- (2) It is a condition of an employer's authority and an employer's exemption, other than a performer representative exemption, that the employer must—
 - (a) comply with the Code of Practice, and
 - (b) use the employer's best endeavours to ensure all adults employed by the employer comply with the Code of Practice.

[5] Section 58(3)

Omit "A performer representative who is exempt from holding an employer's authority must, in relation to a child's employment".

Insert instead "It is a condition of a performer representative exemption that the performer representative must".

[6] Section 58(4)

Omit the subsection. Insert instead—

- (4) It is a condition of an employer's authority and an employer's exemption, other than a performer representative exemption, that the employer must ensure a copy of 1 of the following is given to the parent of a child before the child commences employment with the employer—
 - (a) the Code of Practice,

- (b) a document, approved by the Children's Guardian, that explains the Code of Practice.

[7] Section 59 Code of conduct—the Act, s 97(1)(a)

Insert before section 59(1)—

- (1A) It is a condition of an employer's authority and an employer's exemption, other than a performer representative exemption, that the employer must comply with this section.

[8] Section 59(1)

Omit "It is a condition of an employer's authority that the".

Insert instead "The".

[9] Section 59A

Insert after section 59—

59A Offence—failure to comply with employer's exemption condition

An employer must not fail to comply with a condition of an employer's exemption.

Maximum penalty—50 penalty units.

Note— Employment of a child in contravention of a condition of an employer's authority is also an offence—see the Act, section 97(2).

[10] Schedule 6 Code of practice—child employment

Renumber section 26, where secondly occurring, as section 28.

[11] Schedule 7 Penalty notice offences

Insert at the end of the table—

Offences under this Regulation

Section 59A for failure to comply with the condition in section 58(2) relating to—

(a) Schedule 6, sections 3–6, 8, 12–14 and 23	\$110
(b) Schedule 6, sections 7, 11, 21 and 22	\$550
(c) Schedule 6, sections 9, 10, 15, 19 and 20	\$1,100
(d) Schedule 6, sections 16 and 17	\$220
(e) Schedule 6, sections 26–28	\$330
Section 59A for failure to comply with the condition in section 58(3)(a) or (b)	\$110
Section 59A for failure to comply with the condition in section 58(3)(c)	\$330
Section 59A for failure to comply with the condition in section 58(4)	\$110
Section 59A for failure to comply with the condition in section 59	\$110