

Young people in the workplace

By Joel Fetter

Joel Fetter is the Legal and Industrial Officer for the Australian Council of Trade Unions

Most young people are in some form of work by the time they are in secondary school, whether it is a paid job or helping out in a family business or farm. Of course, this definition does not include the other unpaid work that children do in the home, at school or in the community.

Work, of any sort, is an important part of a young person's life, helps them to develop new skills, decide what it is they like doing, form valuable social bonds and (in the case of paid work)—earn and save money. However, starting working life also raises a number of new challenges for young people, including learning how to balance work, study and family commitments; how to develop good relationships with bosses and co-workers (including developing strategies for managing conflict); and how to protect and advance their own rights and interests in the workplace.

The purpose of this article is to briefly review the position of children and young people in the workplace, the protections given to them by law, and some of the problems that they may face at work.

Statistics

In 2006, there were 175,100 children aged five to 14 years of age in some form of work, representing 7% of all children in that age group. Most (54%) were in paid employment, a third worked in a family business or farm, and 16% were working for themselves. About a quarter of working boys deliver leaflets or newspapers, and another quarter work on farms. About a quarter of young female employees work in shops, and another quarter work as carers. Most working children work less than five hours per week during school term

(although 27% of 10–14 year olds worked six or more hours per week during term), usually on weekends or after school, and pick up additional shifts during holidays (when 43% of working children aged 10–14 are working six hours or more per week). A significant proportion of working children (14%) work late nights (after 7pm) during school term. The main reason for working is to earn spending money (51%), or to save money (24%).¹

In the 15–19 year age group, there were 749,600 young people in employment in 2008 (as well as 119,000 people looking for work)—representing 52% of young people of that age. Most of these young people are working in the retail (31%) or hospitality (27%) industries, and close to 90% of the jobs in those industries are casual or part-time. Young casual and part-time workers complete an average of 12 hours work each week, even though 63% of young working women and 49% of young working men are also undertaking full-time education while working.² The average full-time junior employee (under 21) earns \$411 per week in ordinary time earnings, equivalent to a wage of \$10.82 per hour.³ The average part-time or casual worker between 15 and 19 years of age earns \$149 per week.⁴

Legal regulation of the work of children and young people

A range of general laws relating to employment operate to protect children and young workers, including industrial relations legislation, occupational health and safety laws, and laws against discrimination and harassment.

In addition, most states and territories have legislation specifically regulating the work of children. For instance, in Victoria, the *Child Employment Act 2003* provides a general

minimum working age of 13 (or 11 years for certain delivery work). Children under 15 must only be given 'light work', and must not be permitted to work during school hours (unless exempted by the Minister). Hours of work are capped at 12 hours per week during school term, and 30 hours per week during holidays (including a half-hour rest break after three hours work); work may not generally be performed outside of the hours of 6am to 9pm. There are exceptions for children working in family businesses (where there is no minimum age of employment, and no regulation of working hours) or in the entertainment industry (where there is no minimum age but the employer must obtain a permit to employ the child, and there is also no regulation of working time).

Young people working in jobs covered by industrial awards are generally entitled to 'junior rates', which are a fraction of the adult rate. For example, in the fast food industry, the minimum ordinary hourly rate for adults is about \$15 per hour; however, children under 17 generally receive only 40-50% of the adult rate.⁵ Higher 'penalty' rates (up to 2.5 times the regular rate of pay) are generally available for work performed on weekends, evenings, nights and public holidays. Children working as casual employees are also entitled to an additional loading (generally between 15–30% of the ordinary rate), to compensate them for the fact that they are generally not entitled to paid personal leave, paid annual leave or notice of termination. Short-term casuals—and many other workers—are generally excluded from statutory unfair dismissal schemes, and so may have no remedy in the event that they are sacked unfairly.

In some states and territories, for children working in award-free areas—such as those delivering leaflets—there is no legal minimum rate of pay. The same applies to children who do not work as 'employees', such as those working as 'contractors' and volunteers (including, potentially, those working in family businesses). In some parts of Australia, there is a nominal payment made to students on work experience or structured workplace learning programs (\$5 per day in Victoria),⁶ but in other jurisdictions no payment is made.

Wages are also low for young people completing traineeships and apprentices. For example, a person who leaves school after year 10 to undertake a basic traineeship will only earn about \$9 per hour worked.⁷

However, trainees and apprentices may have other conditions of their employment regulated, for their protection, by state training legislation, which may impose maximum probationary periods, minimum guaranteed hours of employment, restrictions on working overtime or shiftwork, and (for apprentices) protection against termination of their employment.⁸

Of course, these are only minimum wages and conditions of employment. Employees may be able to achieve better outcomes by individual negotiation with their employer or (much more likely) through collective negotiations, usually conducted by a union on behalf of all the workers in a particular workplace. For example, in the Victorian hospitality industry, collective bargaining delivers wages that are 9% higher than the award, on average. In other industries where workers have greater collective power (such as manufacturing, utilities, transport and health) the wage premium for those workers covered by collective bargaining is generally in the order of 40 or 50%!⁹

Problems facing children and young workers

Children and young people face a special range of issues at the workplace. First, there is the potential for work to interfere with education. The figures above show that almost a third of children under 14 are working more than six hours per week during term, and that the average part-time or casual employee over 15 works for 12 hours each week. This is a significant workload, and it may be undermining their capacity to concentrate on their studies.

The second problem is the low rates of pay that young people receive. Although most children have other forms of income or support (usually their parents), some older children who have left home, or who cannot rely on their parents for adequate support, are at risk of poverty if they were to rely solely on junior wages. Another problem with our system of junior wages is that many young workers find that, as their wage increases, their security of employment falls, as their employers are tempted to replace them with younger, and cheaper, staff.

A third issue is that children in employment are particularly vulnerable to exploitation at work, since they often lack the awareness of their legal rights, and the confidence to challenge their employer (particularly given

that many, if not most, young workers do not have protection from unfair dismissal). This problem is exacerbated in workplaces where young people may not be aware of the right to join a union and bargain collectively with their employer about their employment conditions.

The vulnerability of young workers has been made especially apparent over the last few years. Under the former Howard government's industrial relations laws, employers could make Australian Workplace Agreements ('AWAs') with their staff which significantly cut their pay and conditions. These AWAs were most widely used in the retail and hospitality industries, and the evidence suggests that they were mostly used to cut (young) workers' casual loadings; cut penalty rates for working on weekends, evenings or public holidays, and also to make their rosters and working hours subject to greater levels of managerial control.¹⁰

Even though the new federal government has abolished AWAs, there is a significant risk that some employers will not fully restore loadings and penalty rates, but will continue to pay the low rates of pay that they have been accustomed to paying over the last ten years. Because the chances of detection by government inspectors are low, it will be up to young workers to ensure they are receiving the correct rate of pay, with the assistance of their parents, their union or the relevant government's workplace authorities.

Finally, it goes without saying that the best protection that any worker, young or old, can have in the workplace is the advice, representation, and collective bargaining services which unions offer to their members. Membership starts from \$3.30 per week, for example, for someone who works less than 10 hours per week in the retail sector. Young people interested in joining a union can contact Unions Australia on 1300 486 466 for more information.

Endnotes

1. ABS, *Child Employment* (June 2006) cat 6211.0.
2. ABS, *Labour Force* (January 2008) cat 6202.0, table E14.
3. ABS, *Employee Earnings and Hours* (May 2006) cat 6306.0.
4. ABS, *Employee Earnings, Benefits and Trade Unions Membership* (August 2007) cat 6310.0.
5. See, eg. *National Fast Food Retail Award 2000* [AT806313CRV].
6. 'Work Experience Arrangements' (2008) Ministerial Order 56 under the *Education and Training Reform Act 2006* (Vic).
7. *National Training Wage Award 2000* [AW790899CAN].

8. See *Education and Training Reform Act 2006* (Vic).
9. David Peetz & Alison Preston, AWAs, *Collective Agreements and Earnings: Beneath the Aggregate Data* (2007), Table A3.
10. Victorian Workplace Rights Advocate, *Report of the Inquiry into the Impact of the Federal Government's Work Choices Legislation Work Choices Legislation on Workers and Employers in the Victorian Retail and Hospitality Industries* (2007).