



Children's Choral Performances and the Child Employment Act 2003

The employment of children under 15 years of age in Victoria is regulated by the *Child Employment Act 2003* ('the CE Act'). The CE Act aims to ensure that the employment of a child does not adversely affect the child's education, health, safety and moral welfare.

The *Mandatory Code of Practice for the Employment of Children in Entertainment* ('the Mandatory Code') also applies to employment of children in the entertainment industry in Victoria and contains specific requirements concerning the hours of work, breaks and other conditions to be observed in the engagement of a child in this industry.

Employment is defined under the CE Act as follows:

"4. What is employment?"

- (1) For the purposes of this Act, a child is engaged in employment if the child takes part or assists in any business, trade or occupation carried on for profit –
 - (a) whether or not the child receives payment or other reward for his or her participation or assistance; and
 - (b) whether the child is engaged under a contract of service, a contract for services or any other arrangement."

Performance activities carried out by choirs that involve children under 15 years of age in Victoria will usually be deemed 'employment' if:

- the particular choir engaging children is carried on for profit; or
- the event or performance that a choir participates in assists another organisation that is carried on for profit; or
- a choir is contracted by another for profit organisation to perform.

In most cases concerts and activities which are predominately performed by choir members for the benefit of their family members and supporters will not be considered 'employment' as defined by the Act but it would be prudent to contact a Child Employment Officer to check whether a particular event or activity proposed falls within the coverage of the CE Act particularly if the choir is one carried on for profit.

EXAMPLE 1

'We are a large choir with a significant proportion of our members under 15 years of age. Our choir is also an incorporated entity. We have been asked to perform at the Australian Open in Melbourne at the pre-match entertainment for the Men's Singles Finals. We will receive a modest fee for our service. For this particular performance ten children are under 15 years of age. Are we required to obtain Child Employment Permits?'

Yes. The children under 15 years of age, taking part in such an event, are assisting businesses carried on for profit. The choir itself is a corporate entity and there are multiple businesses carried on for profit involved in the organisation of such an event that benefit from such a performance.

EXAMPLE 2

'We are a popular community based choir of a not for profit status. Basically we are a bunch of people, some of whom have dabbled in professional singing in the past, who love to get together and harmonise. We practice weekly at a local hall as we get invited to sing at a lot of local events. We put on performances at state schools, fetes and local council events. We hold an annual concert where we charge entry with all proceeds going back into the running of the choir'



The application process

The CE Act requires that an application for a Child Employment Permit must be made and a Permit issued prior to the employment of a child, with the exclusion of children working for family businesses.

A nominated individual must be named as the employer on the application as well as any additional supervisors of a child. The nominated employer as well as any supervisors must have a current National Police Check on file with Industrial Relations Victoria in order for a permit to be granted. A Child Employment Officer should be contacted in order to arrange a National Police Check for child employment purposes. Please note that a Working with Children check or police checks that are conducted for registered teachers are unable to be accepted for child employment purposes.

An assessment of the activity proposed is also carried out by a Child Employment Officer prior to the granting of a Child Employment Permit to ensure that the employment proposed does not adversely affect a child's education, health, safety and moral welfare. The employer will usually be required to provide further particulars for a Child Employment Officer to conduct an assessment of the activity.

performance which includes the children, is a business carried on for profit. The children in undertaking such a performance are assisting a business carried on for profit.

If you are unclear if your choir would need to obtain Child Employment Permits in particular circumstances please contact a Child Employment Officer to discuss the particulars of your choir's status and the performance that it is proposed that the children be engaged in.

For further assistance and guidance with the application process for a Child Employment Permit and the requirements of the CE Act and the Mandatory Code contact a Child Employment Officer on **1800 287 287**.

Alternatively further information about the CE Act and the Mandatory Code can be accessed at www.irv.vic.gov.au.