



Participation of Children in Fundraising Appeals

Are children protected by fundraising legislation?

Only New South Wales and the Australian Capital Territory include a comprehensive set of conditions regulating participation of children in fundraising activities. Queensland, Western Australia and Tasmania specify age requirements.

Victoria and South Australia currently have no regulation for children participating in fundraising collections. However South Australia is in the process of adopting a Code of Practice mandating that no child under the age of 15 years can act as a collector unless they are supervised by a responsible adult over the age of 18 years.¹

What is the minimum age at which a child can participate in a collection?

The minimum age at which a child can participate in a fundraising collection varies across Australia. NSW and the ACT allow participation at an earlier age than Queensland, Western Australia and Tasmania, but under very strict conditions. For example a child in the ACT may participate at the age of six as long as there is direct supervision by a person with parental responsibility and at 12 with parental consent. In NSW, a child must be at least eight years old before they are permitted to participate, with very strict conditions attaching. Queensland has a minimum age requirement of 15 years unless there is consent by a parent or guardian and the child is accompanied by an adult.

In Tasmania, children under the age of 12 years may only collect money if they are under the immediate control of an adult. Children aged between 12 and 15 years may only collect money under the supervision of an adult. Persons 16 years of age or over may solicit for donations without supervision.

In Western Australia, the *Street Collections (Regulation) Act 1940* requires that a permit-holder must not allow a person who is under 16 to be a collector unless authorised by the Minister to do so. (There is no provision in the *Charitable Collections Act 1946*)

Victoria and South Australia do not currently have any specific requirements relating to children in fundraising legislation.

¹ However the Code recognises a charity or collection agent may allow a person under the age of 15 years to act as a collector in which case a written under-age collection policy must be posted on the charity's website and made available to the public on request.

What is the minimum age to be remunerated (other than out of pocket expenses)?

NSW is the only jurisdiction which specifically prohibits remuneration to children under the age of 13 years, but from 13 years of age they can be remunerated. If a child 13 years and over is paid wages in NSW the fundraiser has to issue a letter of engagement which includes the rights of the employee; the fundraiser also has to maintain a record of employment.

In Victoria the minimum age and conditions for child employment is set at 15 years of age by the *Child Employment Act 2003*. Similarly in Queensland 'child employment' is governed by separate legislation, the *Child Employment Act 2006*, which sets the minimum age for employment at 13 years, although this can be lowered to 11 years of age for supervised delivery type work.

In Western Australia no collector or fundraiser who has a permit under the *Street Collections (Regulation) Act 1940* can be remunerated.

What are supervision requirements?

In the ACT a child over six years of age must be adequately supervised having regard to the age, sex and maturity of the child. The child is not to enter a dwelling house or a motor vehicle for the purposes of the collection. The supervising adult must have contact with the child in at least 30 minute intervals.

NSW prescribes tighter controls including:

- At all times as reasonably practical the child must be able to contact their parent/s during the appeal;
- The child must be adequately supervised;
- The supervisor must supervise no more than 6 children simultaneously;
- The supervisor must be in close proximity and make contact with the child at intervals not greater than 30 minutes;
- Each child participant must work with at least one other child participant;
- The fundraiser must ensure that the physical and emotional well-being of a child participant is not put at risk;
- Appropriate insurance must be secured for a child participant;
- Prohibitions: the fundraiser must ensure a child participant does not enter a private dwelling when soliciting door to door; and does not solicit, sell to or collect from a person in a motor vehicle.

What are the hours of participation?

The hours of participation in a fundraising collection vary from State to State. The times and details which specifically relate to children are as follows:

New South Wales

- No more than 4 hours on any school day
- On non-school days no more than 6 hours
- No more than 5 days per week
- If an outdoor collection, not before sunrise and not later than sunset
- No later than 8.30 pm if the following day is a school day
- There must be 12 hours between shifts

Queensland

- Collection to be between 9.00 am and 5.00 pm (general provisions applicable to all collectors)

Australian Capital Territory

- Not before 6:00 am or sunrise (whichever is later); not after 7:00 pm or sunset whichever is earlier
- Maximum period for under 12 year olds is 3 hours in any one day
- Maximum period for a child who is at least 12 years old is 7 hours on any one day with at least a 30 minute rest break every three hours.

Tasmania (applicable to all collectors)

- The general hours for all collectors: for residential premises, not before 9:00 am and not after 8:00 pm or sunset whichever is the earlier. (Penalty: a fine not exceeding 20 penalty units.)

Western Australia (applicable to all collectors)

- Monday to Saturday: between 9:00 am and 6:00 pm)
- Sundays and public holidays: no collections are allowed without the approval of the Minister responsible for the Department of Commerce

Are there other requirements for children?

New South Wales has a number of other requirements that have to be observed when using children to collect. Child protection and care have been made paramount in this jurisdiction. Other conditions include:

- A child is not to lift any weight that would be likely to endanger the health of the child
- The fundraiser must take all reasonable steps to ensure that a child receives appropriate and nutritious food
- Food should be available at reasonable hours and drinking water available at all times
- Toilet facilities (toilet, hand washing and hand drying facilities) must be accessible to each child participant

Travel

In NSW, after the appeal is finished the child must be accompanied by their parent or an adult authorised by their parent/s to travel home. This requirement does not apply if the child is more than 12 years of age and the distance home is less than 10 kms and public transport is available and the travel is in daylight hours.

Protection from the elements

NSW requires a child to be adequately clothed and otherwise protected from extremes of climate or temperature.

Punishment prohibited

The NSW legislation also makes it clear that a child is not to be subject to any form of punishment, social isolation or immobilisation or subject to any behaviour that is likely to humiliate or frighten the child.