

# Overseas Territories of Australia

## CHRISTMAS ISLAND

### NO ADVANCEMENT

*In 2016, Christmas Island made no advancement in efforts to prevent the worst forms of child labor. Although research found no evidence that child labor, including the worst forms, exists in Christmas Island, a gap in the legal framework for light work leaves children vulnerable to involvement in the worst forms of child labor.*

## COCOS (KEELING) ISLANDS

### NO ADVANCEMENT

*In 2016, the Cocos (Keeling) Islands made no advancement in efforts to eliminate the worst forms of child labor. Although research found no evidence that child labor, including its worst forms, exists in the Cocos (Keeling) Islands, gaps exist in the legal framework to prevent children from involvement in the worst forms of child labor, including a minimum age for light work that is below international standards.*

## NORFOLK ISLAND

### MINIMAL ADVANCEMENT

*In 2016, Norfolk Island made a minimal advancement in efforts to prevent the worst forms of child labor. In June, the Norfolk Island Administration Act went into effect, which established that New South Wales state laws apply to Norfolk Island; this raised the compulsory education age to 17 years. Although research found no evidence that child labor, including its worst forms, exists on Norfolk Island, gaps in the legal framework fail to prevent children from involvement in the worst forms of child labor. Legislation does not prescribe a minimum age for employment, prohibit hazardous work for children, or fully protect minors under age 18 from commercial sexual exploitation.*

### I. PREVALENCE AND SECTORAL DISTRIBUTION OF CHILD LABOR


Research found no evidence that child labor, including its worst forms exists on Christmas Island, Cocos (Keeling) Islands, or Norfolk Island.(1, 2)

### II. LEGAL FRAMEWORK FOR THE WORST FORMS OF CHILD LABOR

Christmas Island (CI), Cocos (Keeling) Islands (CKI), and Norfolk Island (NI) are included as part of the territory of the Australian Commonwealth, which provides for their defense.(1, 3-6) According to the Government of Australia, the extent to which legislation, including laws implementing Australia's treaty obligations, applies to these external territories varies.(7) For Christmas Island and Cocos (Keeling) Islands, all legislation of the Federal Parliament applies, unless specifically excluded.(7) For Norfolk Island, legislation of the Federal Parliament applies only if it is clearly stated to do so or if it is obvious from the legislation in question that it was intended to do so.(7) Thus these territories follow a combination of their own laws and some of the laws of Australia.(7)



Because Australia has ratified most key international conventions concerning child labor, the following conventions apply to Christmas Island, Cocos (Keeling) Islands and Norfolk Island (Table 1).

**Table 1. Ratification of International Conventions on Child Labor**

| Convention  | Ratifications |     |    |
|---|---------------|-----|----|
|   | CI            | CKI | NI |
|  ILO C. 138, Minimum Age |               |     |    |
| ILO C. 182, Worst Forms of Child Labor  | ✓             | ✓   | ✓  |

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**Table 1. Ratification of International Conventions on Child Labor (cont)**

| Convention  |  | Ratifications |     |    |
|---|--|---------------|-----|----|
|   |  | CI            | CKI | NI |
|  | UN CRC   | ✓             | ✓   | ✓  |
|   | UN CRC Optional Protocol on Armed Conflict   | ✓             | ✓   | ✓  |
|   | UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography | ✓             | ✓   | ✓  |
|  | Palermo Protocol on Trafficking in Persons   | ✓             | ✓   | ✓  |

## CHRISTMAS ISLAND AND COCOS (KEELING) ISLANDS

Christmas Island and Cocos (Keeling) Islands are subject to the laws and regulations related to child labor, including its worst forms, of the Commonwealth of Australia and the state of Western Australia.<sup>(1)</sup>

**Table 2. Laws and Regulations on Child Labor**

| CHRISTMAS ISLAND/COCOS (KEELING) ISLANDS                                      |                                       |          |   |
|---|---------------------------------------|----------|---|
| Standard  | Meets International Standards: Yes/No | Age      | Legislation   |
| Minimum Age for Work  | Yes                                   | 15       | Section 190 of the Western Australia Children and Community Services Act (8)  |
| Minimum Age for Hazardous Work  | Yes                                   | 18       | Section 10.4 of the Western Australia Mines Safety and Inspection Regulations (9)   |
| Identification of Hazardous Occupations or Activities Prohibited for Children | Yes                                   |          | Section 10.4 of the Western Australia Mines Safety and Inspection Regulations (9)   |
| Prohibition of Forced Labor   | Yes                                   |          | Sections 270.6–270.7 of the Commonwealth Criminal Code Act of Australia; Sections 270.6-270.7 and 271.9 of the Crimes Legislation Amendment Act (10, 11)  |
| Prohibition of Child Trafficking  | No                                    |          | Sections 271.2–271.7 of the Commonwealth Criminal Code Act of Australia (10)  |
| Prohibition of Commercial Sexual Exploitation of Children                     | Yes                                   |          | Section 16 of the Western Australia Prostitution Act; Section 192 of the Western Australia Children and Community Services Act; Sections 271.2–271.7 and 273.1 of the Commonwealth Criminal Code Act of Australia (8, 10, 12) |
| Prohibition of Using Children in Illicit Activities                           | No                                    |          | Sections 309–310 of the Commonwealth Criminal Code Act of Australia (10)  |
| Minimum Age for Military Recruitment  |                                       |          |   |
| State Compulsory  | N/A*                                  |          | Canberra Act 2600 (13)  |
| State Voluntary   | Combat: Yes<br>Non-Combat: Yes        | 18<br>17 | Canberra Act 2600 (13)  |
| Non-state Compulsory  | No                                    |          |   |
| Compulsory Education Age  | Yes                                   | 17.5     | Section 6 of the Western Australia School Education Act (14)  |
| Free Public Education   | Yes                                   |          | Section 98 of the Western Australia School Education Act (14)   |

\* No conscription (13)

In Christmas Island and Cocos (Keeling) Islands, the Government of Western Australia's Children and Community Services Act sets the minimum age for light work in delivery employment at 10 years if the child is accompanied by a parent or an authorized adult.<sup>(8)</sup>

This is not in compliance with international standards, which set the minimum age for light work at 13.

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Research found that laws related to child trafficking and illicit activities are not sufficient as trafficking across international borders is not a criminal offence and the use of children in the production of drugs is not explicitly criminalized.(10)

For Christmas Island and Cocos (Keeling) Islands, the Western Australia School Education Act notes that education is compulsory until the end of the year in which a child reaches age 17 years and 6 months; until the child finishes the minimum requirements for secondary school graduation under the Curriculum Council Act of 1997; or until the child reaches age 18, whichever comes first.(14)

## NORFOLK ISLAND

Norfolk Island is a self-governing territory of Australia and is subject to the child labor laws of the Commonwealth of Australia and its own laws.(15, 16) The Government has established laws and regulations related to child labor, including its worst forms (Table 2).

| NORFOLK ISLAND  |                                       |          |  |
|---|---------------------------------------|----------|--|
| Standard  | Meets International Standards: Yes/No | Age      | Legislation  |
| Minimum Age for Work  | No                                    |          | Art. 24 of the Norfolk Island Employment Act (17)  |
| Minimum Age for Hazardous Work  | No                                    |          |  |
| Identification of Hazardous Occupations or Activities Prohibited for Children | No                                    |          |  |
| Prohibition of Forced Labor   | Yes                                   |          | Sections 270.6–270.7 of the Commonwealth Criminal Code Act of Australia; (10)  |
| Prohibition of Child Trafficking  | Yes                                   |          | Sections 271.2–271.7 of the Commonwealth Criminal Code Act of Australia (10)   |
| Prohibition of Commercial Sexual Exploitation of Children                     | No                                    |          | Section 270.6 of the Commonwealth Criminal Code Act of Australia; Section 93N of the Criminal Law Amendment Act; and Articles 122-125 of the Norfolk Island Criminal Code Act (10, 18, 19) |
| Prohibition of Using Children in Illicit Activities                           | No                                    |          | Section 305 of the Norfolk Island Criminal Code Act 2007 (19)  |
| Minimum Age for Military Recruitment  |                                       |          |  |
| State Compulsory  | N/A*                                  |          | Canberra Act 2600 (13)   |
| State Voluntary   | Combat: Yes<br>Non-Combat: Yes        | 18<br>17 | Canberra Act 2600 (13)   |
| Non-state Compulsory  | No                                    |          |  |
| Compulsory Education Age  | Yes                                   | 17       | Section 21(B) of the New South Wales Education Act (20)  |
| Free Public Education   | Yes                                   |          | Section 31 of the New South Wales Education Act (20)   |

\* No conscription (13)

Norfolk Island does not have a minimum age for work. Under the Norfolk Island Employment Act, children younger than age 15 may begin working with certain limitations.(15, 17) This is not in compliance with international standards because it allows the employment of children under the age of 15. It also fails to meet international standards because it is lower than the compulsory age for education and may increase the risk of children's involvement in the worst forms of child labor.

In addition, the Government is not in compliance with international standards as it does not have a minimum age for hazardous work, has not identified hazardous occupations prohibited for children, does not protect children age 16 and 17 from commercial sexual exploitation, and has not criminalized the use of children illicit activities, including in the production of drugs.(19)

On June 1, 2016, the Norfolk Island Administration Act went into effect, which established that New South Wales (NSW) state laws apply to Norfolk Island. This includes raising the compulsory education age to 17.(2, 21, 22) While this legislation

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has the potential for improving legal protections for children engaged in child labor, including its worst forms, it is unclear how and when NSW's child labor laws will be implemented on Norfolk Island.(2, 21)

## III. ENFORCEMENT OF LAWS ON THE WORST FORMS OF CHILD LABOR

Although there is no evidence of a problem, the Government of Australia has established institutional mechanisms for the enforcement of laws and regulations on child labor, including its worst forms, which apply to Christmas Island, Cocos (Keeling) Islands, and Norfolk Island. Additionally, Norfolk Island has its own institutional mechanisms to enforce labor laws and regulations on child labor (Table 3).

**Table 3. Agencies Responsible for Child Labor Law Enforcement**

| CHRISTMAS ISLAND/COCOS (KEELING) ISLANDS   |  |
|--|--|
| Organization/Agency  | Role   |
| Australian Federal Police, the Department of Immigration, and the Department of Regional Development | Enforce criminal laws related to the worst forms of child labor.(23) In the case of the Child Protection Operations Team, coordinate and investigate online and multijurisdictional online child sex exploitation issues, including child pornography.(24) In the case of Human Trafficking Teams, investigate human trafficking for the purpose of transnational sexual and labor exploitation.(23) |
| Australian Department of Child Protection  | Issue orders to stop a child from working if there is a risk of harm.(25)  |

Western Australian WorkSafe Inspectors provide services on Christmas Island and Cocos (Keeling) Islands, where they have the right to enter, at any time, any workplace including aircraft, ships, and vehicles where employees work or are likely to be in the course of their work. Inspectors have unrestricted access to workplaces, except where there is a statutory restriction, to determine whether employers are in compliance with the Occupational Safety and Health Act.(2, 26)

| NORFOLK ISLAND  |   |
|---|---|
| Organization/Agency   | Role  |
| Norfolk Island Employment Inspectors and Child Welfare Officers | Monitor the employment of young workers and take action with regard to their protection. Work to prevent the production of child pornography.(23) |
| Australian Federal Police                                       | Responsible for law enforcement services on Norfolk Island, including combating transnational crimes.(27, 28)                                     |

Prior to June 1, 2016, Norfolk Island employed approximately two labor inspectors to conduct regular workplace inspections; however, New South Wales (NSW) assumed social service responsibilities once NSW laws went into effect. (2)

## III. ENFORCEMENT OF LAWS ON THE WORST FORMS OF CHILD LABOR

Although there is no evidence of a problem, the Government of Australia has established a mechanism to address child labor, including its worst forms, in Christmas Island, Cocos (Keeling) Islands, and Norfolk Island (Table 4).

**Table 4. Key Mechanisms to Coordinate Government Efforts on Child Labor**

| CHRISTMAS ISLAND/COCOS (KEELING) ISLANDS/NORFOLK ISLAND |  |
|---|--|
| Coordinating Body                                       | Role & Description   |
| Interdepartmental Committee on Human Trafficking        | Chaired by the Attorney General's Department, deals with child labor issues from a human trafficking perspective and consists of 10 government agencies.(16) |

## V. GOVERNMENT POLICIES ON THE WORST FORMS OF CHILD LABOR

As there is no evidence of a problem, there appears to be no need for policies to address child labor, including its worst forms in Christmas Island, Cocos (Keeling) Islands, and Norfolk Island.

## VI. SOCIAL PROGRAMS TO ADDRESS CHILD LABOR

As there is no evidence of a problem, there appears to be no need for programs to address child labor, including its worst forms in Christmas Island, Cocos (Keeling) Islands, and Norfolk Island.

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## VII. SUGGESTED GOVERNMENT ACTIONS TO PREVENT THE WORST FORMS OF CHILD LABOR

Based on the reporting above, a suggested action is identified that would advance the continued prevention of child labor, including its worst forms, in Christmas Island, Cocos (Keeling) Islands, and Norfolk Island (Table 4).

**Table 5. Suggested Government Actions to Prevent Child Labor, Including its Worst Forms**

| CHRISTMAS ISLAND/COCOS (KEELING) ISLANDS |  |                   |
|--|--|-------------------|
| Area                                     | Suggested Action   | Year(s) Suggested |
| Legal Framework                          | Ratify ILO Convention 138.   | 2016              |
|  | Raise the minimum age for all light work to 13 to comply with international standards.   | 2015 – 2016       |
|  | Ensure that laws related to child trafficking criminalize the trafficking of children across international borders.  | 2016              |
|  | Ensure that laws related to illicit activities criminalize the use of children in the production of drugs.   | 2016              |
|  | Ensure that the law criminally prohibits the recruitment of children under 18 into non-state armed groups.   | 2016              |
| NORFOLK ISLAND                           |  |                   |
| Area                                     | Suggested Action   | Year(s) Suggested |
| Legal Framework                          | Ratify ILO Convention 138.   | 2016              |
|  | Establish a minimum age for work of 17 to comply with international standards.   | 2016              |
|  | Establish laws to prohibit children under age 18 from engaging in hazardous work and identify hazardous occupations and activities prohibited for children in consultation with employers' and workers' organizations. | 2010 – 2016       |
|  | Enact legislation to expressly prohibit the use of children for commercial sexual exploitation, including prostitution.  | 2016              |
|  | Ensure that laws related to illicit activities criminalize the use of children in the production of drugs.   | 2016              |
|  | Ensure that the law criminally prohibits the recruitment of children under 18 into non-state armed groups.   | 2016              |
|  | Publish information on the applicability and implementation of New South Wales's child labor laws.   | 2016              |

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