

# EDUCATION AND TRAINING REFORM ACT 2006

## MINISTERIAL ORDER 382 - WORK EXPERIENCE ARRANGEMENTS

The Minister for Education makes the following Order:

### Part 1 – Preliminary

#### 1. Title

This Ministerial Order may be cited as **Ministerial Order 382 - Work Experience Arrangements**.

#### 2. Authorising provisions and commencement

This Order is made under sections 5.4.4, 5.10.4 and 5.4.11 of the Act, and comes into operation on 31 December 2010.

#### 3. Purpose

The purpose of this Ministerial Order is to:

- (a) revoke and replace Ministerial Order 56;
- (b) provide an operational framework for the provision of work experience for students; and
- (c) require Principals before making an Arrangement for a student who is a Child to ensure that:
  - (i) the Employer obtain a Permit issued pursuant to the *Child Employment Act 2003* and will ensure that any Supervisor has a current Assessment Notice.

#### 4. Revocation of Ministerial Order 56

Ministerial Order 56 - Work Experience Arrangements - is hereby revoked on and from the date upon which this Ministerial Order 382 comes into operation and from that date Arrangements and all requirements in relation to such Arrangements will be governed by the provisions of this Ministerial Order 382.

#### 5. Definitions and interpretation

In this Order, unless inconsistent with the context or subject matter, the following definitions apply:

**Act** means the *Education and Training Reform Act 2006*.

**Arrangement** means a work experience arrangement made under section 5.4.3 of the Act.

<b>Arrangement Form</b>	means the form prepared in accordance with clause 15 of this Order to be completed by the Principal, Employer, student and Parent of the student (if the student is under 18 years of age).
<b>Assessment Notice</b>	has the meaning given to that term in section 3 of the <i>Working with Children Act 2005</i> .
<b>Child</b>	means a person under the age of 15 years.
<b>Department</b>	means the Department of Education and Early Childhood Development.
<b>Direct supervision</b>	means where a person supervising a student (a supervisor) is physically present at all times to oversee and control what the student is doing.
<b>Employer</b>	means the person who signs the Employer acknowledgement in the Arrangement form. This person will have direct supervision of the student in the workplace or direct supervision or control of a Supervisor who will have responsibility over the student.
<b>Government School</b>	has the meaning given to that term in section 1.1.3 of the Act.
<b>Occupational Health and Safety Program</b>	means an Occupational Health and Safety program developed from time to time by the Department with respect to students undertaking work experience.
<b>Parent</b>	has the meaning given to that term in section 1.1.3 of the Act.
<b>Permit</b>	means a permit issued under Division 2 of <u>Part 2</u> of the <i>Child Employment Act 2003</i> .
<b>Principal</b>	includes: <ul style="list-style-type: none"> <li>(a) a person appointed to a designated position as principal of a Government School;</li> <li>(b) in relation to a school other than a Government School, the principal or person in charge of that school.</li> </ul>
<b>Refugee</b>	means any person who is covered by the definition of refugee in Article 1A of the Refugees Convention as amended by the Refugees Protocol.
<b>School year</b>	in respect of any school means that portion of the year beginning with the first school day of that year and ending with the last school day of that year.

**Supervisor** means the person/s nominated by the Employer to directly supervise a student undertaking work experience.

## Part 2 - Prerequisites For Arrangements

### 6. Requirements of Principal in relation to Employers

Prior to entering into an Arrangement, the Principal must ensure that the Employer acknowledges, by completing the Employer Acknowledgement of the Arrangement Form, to the Principal and the student, and if the student is under 18 years of age, a parent of the student, the responsibilities and obligations of the Employer under an Arrangement, that:

- (1) if the work experience is in Victoria, the Employer –
  - (a) understands and will comply with the occupational health and safety requirements under applicable legislation (including the *Occupational Health and Safety Act 2004*) and standards as required by the Victorian WorkCover Authority; and
  - (b) will comply with the applicable standards and requirements in respect of the placement of the students under the Arrangement, as if the student were an employee of the Employer;
- (2) If the work experience is outside Victoria - the Employer –
  - (a) understands and complies with any standards established by the occupational health and safety authority relevant to that Employer, or, if there are no standards or there is no relevant authority, that the Employer complies with the occupational health and safety standards required by the legislation applicable to the Employer; and
  - (b) will comply with the applicable standards and requirements in respect of the placement of the student under the Arrangement, as if the student were an employee of the Employer;
- (3) the student will be provided with –
  - (a) appropriate training and instruction by the Employer in respect of occupational health and safety; and
  - (b) any equipment or clothing which is required or appropriate to comply with the Employer's obligations as if the student were an employee of the Employer, having taken into account the degree of work experience and skill of the student;
- (4) the Employer will Permit access to the Principal, or his or her representative, to the work place at any reasonable time as agreed between the Principal or

his or her representative and the Employer when the student is attending that work place as part of an Arrangement;

- (5) the Employer will not use the Arrangement as a substitute for the employment of employees or the payment of appropriate wages;
- (6) the Employer can and will provide adequate levels of supervision to ensure the welfare and safety of the student in a non discriminatory and harassment free working environment;
- (7) the Employer will not by engaging the student exceed the permitted number of work experience students in accordance with clause 12;
- (8) the Employer has nominated a person/s who will directly supervise the student (who may be the Employer or a person employed by the Employer) who shall be responsible for carrying out the Employer's obligations under this Arrangement; and
- (9) if the student is a Child, the Employer obtains a Permit issued pursuant to the *Child Employment Act 2003* and will ensure that any Supervisor has a current Assessment Notice.

## 7. Requirements of Principal

- (1) Prior to entering into an Arrangement, the Principal must be satisfied that –
  - (a) the distribution of work experience days during the school year under the proposed Arrangement, and any other Arrangements which have occurred or are likely to occur, does not disadvantage the student with regard to the balance of that student's educational program at his or her school;
  - (b) the student has the capability to undertake the work experience as specified within the Arrangement and to do so without exposing others in the work place to any extraordinary risk;
  - (c) both the Employer and the Supervisor of the student in the work place are aware of his or her obligations to the student under an Arrangement; and
  - (d) appropriate arrangements have been made for the student to travel to and from the workplace and from one work location to another in the course of the work experience.
- (2) The Principal, or a teacher nominated by the Principal, will contact, by any appropriate means, a student at least once during the time the student is placed with an Employer for work experience.

- (3) The Principal must be satisfied that a student has undertaken and satisfactorily completed an occupational health and safety program prior to entering into an Arrangement.
- (4) The Principal, with respect to a student with a disability or impairment, may modify an occupational health and safety program having regard to the disability or impairment of an individual student.
- (5) At least four (4) weeks prior to the student commencing work experience under an Arrangement, the Principal of a school other than a Government school, shall advise the Employer of whether that school holds public liability insurance as set out in clause 10 of this Order.
- (6) The Employer has been provided with any necessary medical information that relates to the work experience student including any medical condition that could require treatment.

#### **8. Suspension of conditions of employment**

- (1) A Principal may suspend the operation of section 5.4.7(1) of the Act by –
  - (a) allowing a student to be employed under an Arrangement for more than 10 days but not exceeding 15 days during any school term;
  - (b) allowing the period of employment of the student to exceed a total of 10 days but not exceeding 15 days during any school term in respect of the Arrangement.
- (2) A Principal may suspend the operation of section 5.4.7(1) of the Act only in the following circumstances:
  - (a) where a student requires an extended period of employment to acquire particular skills as part of the student's educational program; or
  - (b) to enable a student to learn more about the workplace.

#### **9. Arrangements for Students of or over 21 Years of Age**

- (1) A Principal can make an Arrangement about the placement of a student of or over the age of 21 years with an Employer only in the following circumstances:
  - (a) when the student is an adult returning to school after a period away from study; or
  - (b) the student is classified as a Refugee and has had little exposure to the workplace or to work culture.
- (2) All of the requirements of this Order must be complied with when an Arrangement is made for a student of or over the age of 21 years.

## 10. Public Liability Insurance

Public liability insurance of at least \$10,000,000 cover, per event, in respect of any loss or damage which may be caused by any act or omission of the student whilst engaged under an Arrangement, must be held or taken out, prior to the student commencing work experience under the Arrangement:

- (a) when an Arrangement is entered into by a Principal of a Government school in respect of a Government school student or a Principal of a school conducted in a reciprocating State or Territory in respect of a student in a reciprocating State or Territory - by the Department, with the insured being the Employer and the student;
- (b) when an Arrangement is entered into by a Principal for a school other than a Government school - either:
  - (i) by that school, with the insured being the school and the student; or
  - (ii) by the Employer, with the insured being the Employer and the student, if the Principal of that school has advised the Employer at least four (4) weeks prior to the student commencing work experience under the Arrangement that the school does not have public liability insurance as set out in clause 10.

## 11. Arrangements with Employers in other States or Territories

In addition to the other requirements of the Principal under this Order, a Principal must not enter an Arrangement pursuant to section 5.4.3 (3)(b) of the Act unless the student and/or a Parent of the student have made suitable insurance arrangements ensuring:

- (a) cover for the student for any injuries in the course of the Arrangement at least comparable to that applicable in Victoria to a student under the *Accident Compensation Act 1985*; and
- (b) that public liability insurance of at least \$10,000,000 cover per event in respect of any loss or damage which may be caused by any act or omission of the student whilst engaged under an Arrangement.

## Part 3 - Limitations On Arrangements

### 12. Hours of work experience

A student on work experience must not work—

- (a) beyond the number of hours in a day which are normal working hours for a standard shift without overtime for the industry in which the Employer is engaged;

- (b) between 11.00 pm and 6.00 am.
- (c) beyond a time which is ten hours before the start time of a work experience day or a school day which the student is expected to attend.

**13. Determining the number of students who may be engaged by an Employer**

- (1) Subject to this clause, an Employer is not permitted to engage at any time more than one work experience student for every three employees or part thereof at the workplace.
- (2) For the purposes of this clause the term "employees" shall include:
  - (a) all full time employees at the workplace;
  - (b) for any part time employees, the equivalent number of full time employees (by dividing the total weekly part-time hours by the number of hours in a full-time working week); and
  - (c) any sole proprietors, partners, casual employees or other persons engaged in work at the workplace.
- (3) An Employer may engage more than the permitted number of work experience students allowed under sub-clause (1) where:
  - (a) the Employer certifies that adequate supervision will be provided for all work experience students with that Employer; and
  - (b) the Principal is satisfied that exceeding the maximum number permitted under sub-clause (1) will not be detrimental to the welfare of any work experience student in that work location; and
  - (c) the Principal, or his or her representative, undertake to attend the work place as frequently as is reasonably practicable; and
  - (d) the number of students will not exceed one student for each employee.

**Part 4 - General provisions concerning Arrangements**

**14. The minimum rate of payment for a student engaged under a Arrangement**

- (1) The minimum payment to a student engaged under an Arrangement shall be \$5.00 per day.
- (2) The minimum payment is not remuneration but is to contribute to reimbursing the student for expenses such as daily travel and incidental costs incurred.

**15. Arrangement Form**

- (1) The Arrangement Form must be prepared in the form similar to, and contain the information specified in the attachment to this Order. (2) The Principal must retain a copy of the completed Arrangement Form for all students undertaking work experience for a period of 5 years.

**16. Declared Industries**

For the purpose of section 5.4.11 (5) of the Act, all industries and trades are declared to be classes of employment where there is a higher than usual possibility of a student, who is a Child, being exposed to the risk of physical injury.

**Part 5 – Working with Children Checks**

**17. Working With Children Checks**

- (1) The Principal must not make an Arrangement for a student who is a Child unless:
- (a) the Employer obtains a Permit issued pursuant to the *Child Employment Act 2003*; and
  - (b) any proposed Supervisor has a current Assessment Notice.
- (2) Prior to the commencement of the Arrangement, the Principal must obtain from the Employer a certified copy of the Employer's Permit and a certified copy of the current Assessment Notice of any proposed Supervisor.
- (3) The Principal must retain a certified copy of the Employer's Permit and of any Supervisor's current Assessment Notice for a period of 5 years.
- (4) Prior to the commencement of the Arrangement, the Principal must obtain from the Employer a written assurance that the Employer will advise the Principal immediately if:
- (a) there is a relevant change in circumstances with respect to a Supervisor as specified in section 20(2) of the *Working with Children Act 2005*; or
  - (b) a Supervisor is issued with an interim negative notice or a negative notice within the meaning of section 3 of the *Working with Children Act 2005*.

## 18. Application of Order

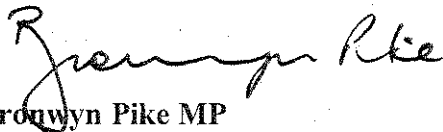
This order applies to all students undertaking work experience. For the avoidance of doubt, a work experience student who is a Child is subject to the transitional provisions as referred to in clause 19(2) of this order.

## Part 6 – Transitional

### 19. Transitional Provisions

- (1) The revocation of Ministerial Order 56 shall not, subject to this clause, affect the status, continuity, operation or effect of any Arrangement made or existing or continuing by or under the revoked Ministerial Order prior to that revocation. However, such Arrangements shall continue to exist as if made under this Ministerial Order only until 30 December 2011.
- (2) The provisions as specified in sections 54 and 55 of the *Child Employment Act* apply.

Dated the 27<sup>th</sup> day of October 2010



**Bronwyn Pike MP**  
**Minister for Education**

