

THE HIGHLAND COUNCIL

PROTECTION OF CHILDREN AT WORK

CHILDREN AND YOUNG PERSONS (SCOTLAND) ACT 1937

EMPLOYMENT OF CHILDREN BYELAWS

GUIDANCE NOTES ON THE EMPLOYMENT OF CHILDREN

The following notes are issued for the guidance of parents, young people and employers and give only a broad outline of the relevant sections of the Children and Young Persons (Scotland) Act 1937 (as amended 1998) and The Highland Council's byelaws on the employment of children. A full copy of the byelaws may be obtained from the Director of Corporate Governance, Legal Section, Council Headquarters, Glenurquhart Road, Inverness IV3 5NX.

The Employment of Children byelaws regulate the types of occupation in which children under school leaving age may be employed, and other conditions of employment. They provide for checks on a child's fitness for employment and for the issue of employment permits, set out the occupation in which a child may be employed and his/her hours of work. Employers are obliged to notify the Education and Learning Service of their child employees. Additional requirements are imposed on the employment of children in street trading, for which a street trader's licence is required.

These byelaws do not apply to children in their last year of compulsory schooling undertaking work experience within the terms of s.123 of The Education (Scotland) Act 1980.

1. DEFINITIONS A "CHILD" means a person who is not, for the purposes of the Education (Scotland) Act 1980, over school age therefore:-

A child whose 16th birthday falls between 1 March and 30 September is over school age on 31 May of that school year.

A child whose 16th birthday falls between 1 October and 28 February is over school age after the end of the Christmas term of that school year.

"EMPLOYMENT" includes assistance in any trade or occupation which is carried on for profit, whether or not payment is received for that assistance.

"PARENT" includes any person who has parental responsibilities and rights under the Children (Scotland) Act 1995.

"LIGHT WORK" means all work, which on account of the inherent nature of the tasks which it involves and the particular conditions under which they are performed is not likely to be harmful to the safety, health or development of children and is not such as to be harmful to their attendance at school, their participation in vocational guidance

or training programmes or a work experience under section 123 of the Education (Scotland) Act 1980 or their capacity to benefit from the instruction received.

“STREET TRADING” includes the selling of newspapers and other articles, singing or performing for profit and any like occupations carried on in any street or public place.

2. PERMITTED EMPLOYMENT

- Children aged 14 or over may be employed only in light work.
- Children aged 13 may only be employed in light work in certain permissible jobs. These are:
 - agricultural or horticultural work;
 - delivery of newspapers, journals and other printed material, subject to the provisions of byelaw 5 (i) which only permits collection of payment under adult supervision;
 - shop work, including shelf stacking;
 - hairdressing salons;
 - office work;
 - car washing by hand in a private residential setting;
 - in a café or restaurant;
 - in riding stables;
 - domestic work in hotels and other establishments offering accommodation.

3. PROHIBITED EMPLOYMENT

It is illegal to employ a child aged under 13 in any circumstances.

No child of any age may be employed:

- in a cinema, theatre, discotheque, dance hall or night club (except in connection with a performance given entirely by children under the terms of a licence granted under the Children & Young Persons Act 1963 and the associated regulations).
- to sell or deliver alcohol, except in sealed containers;
- to deliver milk;
- to deliver fuel oils;

- in a commercial kitchen;
- to collect or sort refuse;
- in any work which is more than three metres above ground level or, in the case of internal work, more than three metres above floor level;
- in employment involving harmful exposure to physical, biological or chemical agents;
- to collect money or to sell or canvass door to door, except under the supervision of an adult;
- in work involving exposure to adult material or in situations which are for this reason otherwise unsuitable for children;
- in telephone sales;
- in any slaughterhouse or in that part of any butcher's shop or other premises connected with the killing of livestock, butchery, or the preparation of carcasses or meat for sale;
- as an attendant or assistant in a fairground or amusement arcade or in any other premises used for the purpose of public amusement by means of automatic machines, games of chance or skill or similar devices;
- in the personal care of residents of any residential care home or nursing home unless under the supervision of a responsible adult;
- in a bar or licensed premises;
- in handling any load likely to cause injury to them;
- in any industrial undertaking;
- in any employment where cleaning machinery would expose the child to risk of injury;
- on a merchant ship registered in the UK.

Please note: The above is not an exhaustive list and should be read in conjunction with any relevant present or future legislation which may prohibit the employment of children in any additional occupations or specific tasks e.g.:

- the prohibition of employment of persons under 18 in the bar of licensed premises – Licensing (Scotland) Act 1967.

- the prohibition of employment of persons under 18 in effecting any betting transaction or in a licensed betting office – Betting, Gaming and Lotteries Act 1963.
- children shall not handle any load which is likely to cause injury to them – Manual Handling Operations Regulations 1992.
- the prohibition of employment of children in any industrial undertaking – Employment of Women, Children and Young Persons Act 1920.
- no young person may clean machinery if to do so would expose him/her to risk of injury – the Offices, Shops and Railway Premises Act 1963.
- no child shall be caused or permitted to ride on or drive a vehicle, machine or agricultural implement – Agriculture (Safety, Health and Welfare Provisions) Act 1956.
- the prohibition of employment of a person under school age on a ship registered in the UK, except as permitted by Regulations made under the Merchant Shipping Act 1955.

4. WORK OUT OF DOORS

- No child may be employed in any work out of doors unless wearing suitable clothing and footwear. Also where the employer finds (following Risk Assessment) that personal protective equipment is necessary for safe performance of such duties then such protective equipment must be supplied without cost to the employee concerned.

5. STREET TRADING

- No child under 14 years of age may engage in street trading (see Definitions – Section 1 above).
- A child aged 14 years of age or over may not engage in street trading unless:
 - He/she is employed to do so by his parents in connection with their retail business and under their direct supervision.
 - He/she has been granted a Street Trader's Licence following application to the appropriate Section of the Council. Children who are licensed for street trading are subject to the Employment of Children Byelaws limiting their hours and other conditions of employment.

6. HOURS

- No child shall be employed before 7.00am or after 7.00pm on any day.

- A child employed for more than 4 hours on any day must have a rest break of 1 hour.

A child shall only be employed as follows:

- On a school day – a maximum of 2 hours. These hours may be split as follows:
- Up to 1 hour between 7.00am and the start of the school day
- Up to 2 hours between the close of school hours and 7.00pm

Please note: If child works before and after school the total time worked on any day must not exceed 2 hours.

- Sunday – a maximum of 2 hours
- Non-school day (except Sunday):
 - aged under 15 years – total of 5 hours between 7.00am and 7.00pm
 - aged 15 years and over – total of 8 hours between 7.00am and 7.00pm
- School Holidays:
 - aged under 15 years – maximum of 25 hours per week
 - aged 15 years and over – maximum of 35 hours per week

Please note: Each calendar year a child must have, during the school holidays, at least 2 consecutive weeks without employment.

7. EMPLOYMENT PERMIT

- The Education and Learning Service may refuse to issue a permit until the child has a medical examination and/or provides a suitable medical certificate.
- A child may only be employed in accordance with the details shown on the employment permit. Such permits are not transferable and a fresh one will be required for each change of employment.
- Before any alteration of the terms of employment from those shown on the permit, an employer must apply to the Education and Learning Service to have the child's employment permit amended. This should be done in writing enclosing the original employment permit.
- Any such permit is automatically in suspense should he/she not attend school on a normal day or is prevented from attending school due to illness or contact with an infectious disease. It also ceases to have effect if a child is excluded

from school for any cause and the employer may no longer employ that child until school attendance resumes.

- The Education and Learning Service may at any time revoke a child's employment permit if it has reasonable grounds to believe that:
 - the child is being unlawfully employed;
 - the child's health, welfare or ability to take advantage of his/her education are suffering or likely to suffer as a result of employment eg due to persistent lateness or unauthorised absence.
- A child must produce his/her employment permit for inspection when required to do so by an authorised officer of the Council or by a police officer.

8. PENALTIES

- The employer or any other person (other than the employee) convicted of an offence under Section 28 of the Children and Young Persons Act (Scotland) 1937 or the provisions of the byelaws shall be liable to a fine not exceeding level 3 on the Standard Scale, currently £1000.
- Any child of school age convicted of street trading in contravention of Section 30 of the Children and Young Persons Act (Scotland) 1937 or by the provisions of the byelaws shall be liable to a fine not exceeding level 1 on the Standard Scale, currently £200. In practice, any child in this position would most likely be referred to the children's hearing system rather than the court.

9. COMPLETION OF APPLICATION FORMS AND ISSUING OF PERMITS

Application for an employment permit must be made within one week of employing the child. Applications should preferably be made at least 2 weeks in advance especially when it includes employment during the school holidays.

When sections I – III of the application form are completed the form should be returned as follows:

Applications made during the school term – to the child's school which will then complete Section 3 and forward the form to the Education and Learning Service in order that a permit may be issued.

Applications made during school holidays – to the appropriate Area Education and Learning Office at the addresses listed below. (See Appendix I)

However, it should be noted that the Education and Learning Service will not issue permits for employment during the school term without the school having completed Part III and the authorisation of the appropriate Area Care and Learning Manager having been obtained (Part IV).

For further information, please contact:

North Area Education and Learning Office
Oifis Foghlaim agus Ionnsachaidh na Sgìre a Tuath
Drummuie
Golspie
Sutherland
KW10 6TA

Email: cl.northadmin@highland.gov.uk
Tel: 01408 635347

Mid Area Education and Learning Office
Oifis Foghlaim agus Ionnsachaidh na Sgìre Meadhain
Council Offices
High Street
Dingwall
IV15 9QN

Email: cl.adminmid@highland.gov.uk
Tel: 01349 886532

South Area Education and Learning Office
Oifis Foghlaim agus Ionnsachaidh na Sgìre a Deas
Glenurquhart Road
Inverness
IV3 5NX

Email: carelearningadmin@highland.gov.uk
Tel: 01463 702750

West Area Education and Learning Office
Oifis Foghlaim agus Ionnsachaidh na Sgìre an Iar
Charles Kennedy Building
Fort William
PH33 6RQ

Email: cllochaberadmin@highland.gov.uk
Tel: 01349 781410