

Byelaw for the Employment of Children 1999

The Highland Council - Employment Of Children Byelaws

Made: 22nd April, 1999

The Highland Council, in exercise of the powers conferred on them by Sections 28(2) and 30(2) of the Children and Young Persons (Scotland) Act 1937, hereby make the following Byelaws:

Citation and Commencement

1. These Byelaws may be cited as The Highland Council Byelaws on the Employment of Children 1999 and shall come into force one month after confirmation by The Scottish Ministers or on such other date as they may determine.

Interpretation and Extent

2. In these Byelaws, unless the context otherwise requires:

“the authority” means The Highland Council;

“child” means a person who is not for the purposes of the Education (Scotland) Act 1980 over school age.

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

“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 scheme under Section 123 of the Education (Scotland) Act 1980 or their capacity to benefit from the instruction received.

“parent”, in Byelaw 9(d), includes any person who has parental responsibilities in relation to a child (within the meaning of Section 1(3) of the Children (Scotland) Act 1995)³;

“public place” includes any public park, garden, sea beach or railway station and any ground to which the public for the time being have or are permitted to have access, whether on payment or otherwise;

1 1937 c.37

2 1980 c.44

3 1995 c.36

“street” includes any highway and any public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

“street trading” includes the hawking of newspapers, matches, flowers and other articles, playing, singing or performing for profit, shoe blacking and other like occupations carried on in any street or public place;

“year”, except in expressions of age, means a period of twelve months beginning with 1 January.

Prohibited Employment

3.No child of any age may be employed:-

- (a) in a cinema, theatre, discotheque, dance hall or night club, except in connection with a performance given entirely by children.¹
- (b) to sell or deliver alcohol;
- (c) to deliver milk;
- (d) to deliver fuel oils;
- (e) in a commercial kitchen;
- (f) to collect or sort refuse;
- (g) 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;
- (h) in employment involving harmful exposure to physical, biological or chemical agents;
- (i) to collect money or to sell or canvass door to door, except under the supervision of an adult;
- (j) in work involving exposure to adult material or in situations which are for this reason otherwise unsuitable for children;
- (k) in telephone sales.
- (l) 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;
- (m) 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;

¹ This does not prevent children taking part in performances under the provisions of a licence granted in accordance with the Children and Young Persons' Act 1963, and the associated Regulations.

- (n) in the personal care of residents of any residential care home or nursing home unless under the supervision of a responsible adult;
- (o) selling programmes or refreshments, or other employment in any race course, dog racing enclosure, or any enclosure of a similar nature;
- (p) in any employment connected with gaming or betting;
- (q) in a coal yard, cement yard or scrap metal yard, or in a store for any such materials;
- (r) at any machine prescribed as dangerous in an Order made under Section 19 of the Offices Shops and Railway Premises Act, 1963.

Permitted Employment of Children Aged 14 and Over

4. A child aged 14 or over may be employed only in light work.

Permitted Employment of Children Aged 13

5. A child aged 13 may not be employed except in light work in the following specified categories:

- (a) agricultural or horticultural work;
- (b) delivery of newspapers, journals and other printed material, and collecting payment for same, subject to the provisions of byelaw 3(i);
- (c) shop work, including shelf stacking;
- (d) hairdressing salons;

- (e) office work;
- (f) car washing by hand in a private residential setting;
- (g) in a café or restaurant;
- (h) in riding stables;
- (i) domestic work in hotels and other establishments offering accommodation.

Permitted Employment of Children Under 13

6. A child aged 10 or over may be employed on an occasional basis by and under the direct supervision of his parent or guardian or other suitable responsible adult in light agricultural or horticultural work.

Employment Before School

7. Subject to the other provisions of these byelaws, children may be employed for up to one hour before the commencement of school hours on any day on which they are required to attend school.

Additional Conditions

8. No child may be employed in any work out of doors unless wearing suitable clothing and footwear.

Notification of Employment and Employment Permits

9. Before employing a child, the employer must send to the authority written notification stating:

- (a) his own name and address;
- (b) the name, address and date of birth of the child;
- (c) the hours and days on which the child is to be employed, the occupation in which the child is to be employed, details of the task involved and, if different from (a) above, the place of employment;
- (d) a statement of the child's fitness to work, and of approval for the child to be employed, completed by the child's parent;
- (e) details of the school at which the child is a registered pupil; and
- (f) a statement to the effect that an appropriate risk assessment has been carried out by the employer.

10. Where, on receipt of a notification, the education authority is satisfied that:

- (a) the proposed employment is lawful;
- (b) the child's health, welfare or ability to take full advantage of his education would not be jeopardised; and
- (c) the child is fit to undertake the work for which he is to be employed, it will issue the child with an employment permit.

11. The education authority, may refuse to issue an employment permit unless the child has a medical examination and provides a suitable medical certificate.

12. The employment permit will state:

- (a) the name, address and date of birth of the child;
- (b) the hours and days on which the child is to be employed, the occupation in which the child is to be employed, details of the task involved and the place of employment.

13. A child may be employed only in accordance with the details shown on his employment permit.

14. An education authority may amend a child's permit from time to time on the application of an employer.

15. The education authority may at any time revoke a child's employment permit if it has reasonable grounds to believe:-

- (a) that the child is being unlawfully employed, or
- (b) that his health, welfare or ability to take advantage of his education are suffering or likely to suffer as a result of the employment.

16. A child must produce his employment permit for inspection when required to do so by an authorised officer of the authority or a police officer.

Street Trading

17. No child under the age of 14 may engage in street trading and a child aged 14 or over may not engage in street trading unless:

- (a) he is employed to do so by his parents, in connection with their retail business and under their direct supervision; and
- (b) he has been granted a licence to do so ("a street trader's licence") by the authority and is acting in compliance with the terms of that licence.

18. The authority shall not grant a street trader's licence to any child if it has reason to believe that the employment of the child in street trading would be prejudicial to his health, welfare or ability to take full advantage of his education or the child's street trader's licence has been previously revoked.

19. A street trader's licence shall prohibit the holder from engaging in street trading on a Sunday and shall:-

- (a) be valid for not more than 12 months and shall expire on 31 December;
- (b) prohibit the holder from touting or importuning to the annoyance or obstruction of any member of the public in any street or public place; and
- (c) require that the child notify the authority within one week of any change of address.

20. The authority may suspend or revoke a street trader's licence if it has reason to believe that the holder's continued employment in street trading would be prejudicial to his health, welfare or ability to take full advantage of his education, or if the holder:-

- (a) is found guilty of any offence connected with the street trading;
- (b) commits any breach of these Byelaws or the terms of his street trader's licence;
- (c) uses the licence as a means for begging, immorality or any other improper purpose; or
- (d) fails to notify the authority within one week of any change of address.

Revocation

21 The Byelaws with respect to the employment of children (and street trading) made by Highland Regional Council on the Thirteenth day of September 1979 and confirmed by the Secretary of State with modifications on the Twenty-fifth day of June 1980 are hereby revoked.

THE COMMON SEAL of The Highland Council was affixed to these Byelaws on 21 September 1999 in the presence of: Malcolm McRae.

Signature(s) Signed.....M ...McRae.....
Designation(s) of Signatory/ies: Head of Legal Services

[Seal]

These Byelaws are hereby confirmed by the Scottish Ministers on 15th March, 2000 and shall come into force on 21 March 2000

Signature SignedJoan...Fraser.....

A member of staff of the Scottish Ministers: Head of Division