

**ABERDEENSHIRE COUNCIL
CHILDREN AND YOUNG PERSONS (SCOTLAND) ACT 1937
EMPLOYMENT OF CHILDREN BYELAWS
NOTES ON THE EMPLOYMENT OF CHILDREN
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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 Aberdeenshire Council's byelaws on the employment of children. A full copy of the byelaws may be obtained from our website at www.aberdeenshire.gov.uk/

These notes are intended for guidance only and are not an authoritative statement of the law. Any parent or employer wishing further advice as to the law should seek independent advice from a solicitor or the Citizens' Advice Bureau.

The Employment of Children Byelaws regulate the types of work 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, for the issue of employment permits set out the occupation in which a child may be employed and their hours of work. Employers are obliged to notify the Education Department of their child employees.

1. DEFINITIONS

Many of these definitions are contained within the legislation. If you are unsure what any of these mean, it is recommended that you seek advice in relation to this.

- ▣ **A “child” means a person who is not, for the purposes of the Education (Scotland) Act 1980, over school age:**

A child who is 16 years of age between 1 March and 30 September is over school age on 31 May of that school year.

A child who is 16 years of age 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.**

2. PERMITTED EMPLOYMENT

- ▣ **Children aged 13 or over 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, and collecting payment for same;
- shop work, including shelf stacking;
- hairdressing salons;
- office work;
- car washing by hand in a private residential setting;
- in a cafe or restaurant;
- in riding stables;
- domestic work in hotels and other establishments offering accommodation.

- **Children aged 14 or over may be employed only in light work.**

3. PROHIBITED EMPLOYMENT

▣ **No child under 13 years of age may be employed in any capacity.**

▣ **No child under 16 years of age may be employed:**

- (a) in a cinema, theatre, discotheque, dance hall or night club, except in accordance with a performance given entirely by children;¹
- (b) to sell or deliver alcohol, except in sealed containers;
- (c) to deliver milk;
- (d) to deliver fuel oils;
- (e) in the preparation of food² in a commercial kitchen
- (f) in the preparation and serving of food in a hot food take away outlet;
- (g) to collect or sort refuse;
- (h) 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;
- (i) in employment involving harmful exposure to physical, biological or chemical agents;
- (j) to collect money or to sell or canvass door to door, except under the supervision of an adult;
- (k) in work involving exposure to adult material or in situations which are for this reason otherwise unsuitable for children;
- (l) in telephone sales;
- (m) 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;
- (n) 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;
- (o) in the personal care of residents of any residential care home or nursing home unless under the supervision of a responsible adult.

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.

² This does not prevent children undertaking dishwashing duties within commercial kitchens however does aim to protect the safety of the child whilst at work.

N.B. The above is not an exhaustive list and should be read in conjunction with other legislation which prohibits the employment of children in many more occupations and specific tasks.

The following list details some of this relevant legislation and the prohibited employment. It is intended for guidance only and is not an exhaustive list of all occupations prohibited under other legislation.

- the prohibition of employment of persons under 18 in the bar of licensed premises - Licensing (Scotland) Act 2005
- the prohibition of employment of persons under 18 in effecting any betting transaction or in a licensed betting office – Gambling Act 2005
- 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 – Health and Safety (Young Persons) Regulations 1997
- 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 Act – Merchant Shipping Act 1995

4. WORK OUT OF DOORS

- **No child may be employed in any work out of doors unless wearing suitable clothes and shoes. What is suitable depends on the circumstances and if the child does not have suitable clothing and/or shoes, the employer should provide this.**

What is suitable will likely depend on the weather, nature of work, hours of darkness etc.

E.g someone employed to deliver newspapers during hours of darkness should be wearing suitable safety clothing (e.g helmet), suitable reflective clothing and suitable clothing for potential changes in the weather (e.g waterproof).

6. HOURS OF WORK

- **No child shall be employed before 7 a.m. or after 7 p.m. 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:

- **Term Time**

During term time a child may only be employed for a maximum of 12 hours per week. Within this the daily limits are as follows:

up to 1 hour between 7 a.m. and the start of the school day
up to 2 hours between the close of school hours and 7 p.m.

- **Sunday – maximum of 2 hours**

- **Non school day (except Sunday)**

aged under 15 years – total of 5 hours between 7 a.m. and 7 p.m.
aged 15 years and over – total of 8 hours between 7 a.m. and 7 p.m.

- **School Holidays**

aged under 15 years – maximum of 25 hours per week
aged 15 years and over – maximum of 35 hours per week

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

7. EMPLOYMENT PERMIT

- **Before issuing an employment permit the Education Department may require the child to have a medical examination.**
- **A child may only be employed in accordance with the details shown on the employment permit.**
- **An employer may apply to the Education Department to have the child's employment permit amended. This should be done in writing enclosing the original employment permit.**
- **The Education Department 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
- **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.**