

**THE ABERDEENSHIRE COUNCIL**  
**EMPLOYMENT OF CHILDREN BYELAWS**

**Made 20 June 2022.**

**Coming into force**

The Aberdeenshire Council, in exercise of the powers conferred on it by sections 28(2) and 30(2) of the Children and Young Persons (Scotland) Act 1937<sup>1</sup>, hereby makes the following Byelaws:

**Citation and commencement**

1. These Byelaws may be cited as the Aberdeenshire Council Byelaws on the Employment of Children 2022 and shall come into force on 20 June 2022.

**Interpretation and extent**

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

“the authority” means Aberdeenshire Council;

“child” means a person who is not for the purposes of the Education (Scotland) Act 1980<sup>2</sup> 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 8(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)<sup>3</sup>;

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

“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 blackening 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.

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<sup>1</sup> 1937 c.37

<sup>2</sup> 1980 c.44

<sup>3</sup> 1995 c.36

## Prohibited Employment

3. Subject to section 5, no child of any 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;<sup>4</sup>
  - (b) to sell or deliver alcohol, except in sealed containers;
  - (c) to deliver milk;
  - (d) to deliver fuel oils;
  - (e) in the preparation of food<sup>5</sup> in a commercial kitchen
  - (f) in the preparation and serving of food in a hot food<sup>6</sup> 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.

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<sup>4</sup> 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.

<sup>5</sup> This does not prevent children undertaking dishwashing duties within commercial kitchens however protects the safety of the child whilst at work. In connection with The Management of Health and Safety at Work Regulations 1999, Health and Safety Executive provide further guidance on the health and safety law and considerations employers are required under law to take.

<sup>6</sup> This does not prevent children working within hot food take away premises but does protect children from working with hot frying equipment, including the emptying and cleaning of fryers. Employment involving serving food, under supervision the collection of cash for the selling of food and drink would be acceptable under this Byelaw. The intention is to prevent children from using hot frying equipment. In relation to The Management of Health and Safety at Work Regulations 1999, Health and Safety Executive provide guidance in respect of risk assessment for food preparation and service.

### **Permitted employment of children aged 14 and over**

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

### **Permitted employment of children aged 13**

5. No child under 13 years old may be employed in any capacity. A child aged 13 may not be employed except in light work in one or more of 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(j);
  - (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 cafe or restaurant including waiting, serving and dishwashing;<sup>7</sup>
  - (h) in riding stables;
  - (i) domestic work in hotels and other establishments offering accommodation.

### **Employment before and after school hours**

6. Subject to the other provisions of these byelaws, children of any age may not be employed before 7am or after 7pm on any day. Additionally:
- (a) children may not be employed to work during school hours. On school days, children may be employed to work:
    - (i) for up to one hour before the commencement of school hours; or
    - (ii) for up to two hours after the close of school hours
  - (b) on non school days, except on Sundays, children aged under 15 years old may work a total of 5 hours;
  - (c) on non school days, except on Sundays, children 15 years and over may work a total of 8 hours;
  - (d) on Sundays, no child of any age shall work more than a total of 2 hours;
  - (e) during term time a child may only be employed for a maximum of 12 hours per week;
  - (f) during school holidays, children under 15 years old may work a maximum of 25 hours per week;
  - (g) during school holidays, children aged 15 years and over may work a maximum of 35 hours per week;
  - (h) each calendar year a child must have, during the school holidays, at least 2 consecutive weeks where they are not working.

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<sup>7</sup> Children are permitted to work within cafes and restaurants, the Byelaw prevents children from preparing food and using deep fat fryers. Risk assessments should be carried out in line with the Management of Health and Safety at Work Regulations 1999.

### **Additional conditions**

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

### **Notification of employment and employment permits**

8. Within one week of employing a child, the employer must send to the authority a completed Employment Permit Application Form 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 the appropriate risk assessment has been carried out by the employer.
9. Where, on receipt of a completed Employment Permit Application form, 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 will 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.
10. Before issuing an employment permit an education authority may require a child to have a medical examination.
11. 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;
12. A child may be employed only in accordance with the details shown on his employment permit.
13. An education authority may amend a child's employment permit from time to time on the application of an employer.
14. 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.

15. 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.

### **Revocation**

16. The Aberdeenshire Council Byelaws on the Employment of Children 1998, made by Aberdeenshire Council on the 19th day of January, 1999 and confirmed by the Scottish Ministers on the 27<sup>th</sup> day of August 1999 are hereby revoked.

These Byelaws were confirmed electronically by email from Eve Prentice, Policy Officer, Scottish Government on behalf of the Scottish Ministers on 12 May 2022.

Aberdeenshire Council's Legal and People department applied the common seal on these byelaws following confirmation being received as above from Eve Prentice, Policy Officer, Scottish Government on behalf of the Scottish Ministers and determined that these would come into effect from 20 June 2022.