The Stirling Council

THE EMPLOYMENT OF CHILDREN BYELAWS

Made: 2006

Stirling 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\(^1\) hereby makes the following Byelaws:

Citation

1. These Byelaws may be cited as the Stirling Council Byelaws on the Employment of Children 2006

Interpretation and extent

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

   “the Authority” mean Stirling Council;

   “child” means a person who is not for the purposes of the Education (Scotland) Act 1980\(^2\) 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)\(^3\);

   “public space” 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;

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\(^1\) 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 space;

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

Prohibited Employment

3. No child of any age may be employed –

   (a) in a cinema, theatre, discotheque, dancing hall or night-club, except in connection with a performance given entirely by children; 4

   (b) to sell or deliver alcohol, except in sealed containers,

   (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;

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4 This does not prevent children taking part in performances under the provisions of a licence granted in accordance with the Children and Young Person 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) in any premises or employment connected with gaming or betting;

(p) to sell or deliver tobacco products

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 one or more of the following categories:

(a) agricultural or horticultural work;

(b) delivery in 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) working in a café or restaurant;

(h) in riding stables;

(i) domestic work in hotels and other establishment offering accommodation.

Permitted periods of employment

6. Subject to the other provisions of these byelaws, children may be employed for up to one hour between 7.00 am and 8.00 am, and up to 2 hours between the end of the school day and 7.00 pm, subject to a maximum of 2 hours on any day on which they are required to attend school.

Additional conditions

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

Application for and issue of employment permits
8. Within one week of starting employment the child must submit an application form to his headteacher. This form must include:

(a) the child's name, address and date of birth;

(b) the name and address of the employer;

(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 (b) 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; and

(e) a signed statement from the employer to the effect that an appropriate risk assessment has been carried out.

9. Where, on receipt of an application, the headteacher, as representative of the 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.

10. Before issuing an employment permit a head teacher, as representative of the 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. A headteacher, as representative of the Authority, may amend a child's employment permit from time to time on the application of the employer.

14. A headteacher, as representative of the 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.

Street Trading

16. No child may engage in street trading

Revocation

17. The Byelaws with respect to the employment of children made by the Joint County Council of the Combined County of Perth and Kinross Council on 23 May, 1949 and confirmed by the Secretary of State on 18 July, 1949 are hereby revoked insofar as they apply within the area of Stirling Council; and the Byelaws with respect to the employment of children made by the County Council of the County of Stirling on 27 July, 1950 and confirmed by the Secretary of State on 20 July, 1951, are hereby revoked insofar as they apply within the area of Stirling Council.

The COMMON SEAL of Stirling Council
Council was affixed on these
Byelaws on the
of 2006 in the
Presence of

(Signed)
(Name)
(Designation)

These Byelaws are hereby confirmed
By the Scottish Ministers on the
of 2006 and shall come into effect on the
of 2006.

(Signed)
(Name)
A member of staff of the Scottish Ministers
(a member of the Senior Civil Service)
EXPLANATORY NOTE
(This note is not part of the Byelaws)

These Byelaws regulate the types of occupation in which children under school leaving age may be employed (Byelaws 3 – 5), and other conditions of their employment. They provide for checks on a child’s fitness for employment (Byelaws 10 and 11) and for the issue of employment permits, setting out the occupation in which a child may be employed and his hours of work (Byelaws 9 – 16).

These Byelaws are not a comprehensive statement of the law relating to the employment of children and should be read in conjunction with other legislation relating to prohibited occupations and hours of work in particular.

By virtue of section 123 of the Education (Scotland) Act 1980 enactments relating to the prohibition or regulation of the employment of children do not apply to children undertaking work experience within the meaning of the Act. “Enactment” for this purpose includes Byelaws having effect under an enactment, so nothing in these Byelaws applies to a child’s work experience.

Prohibited and permitted employment

Children aged 13 are limited to employment in the occupations listed at Byelaw 5. Children aged 14 or over are not limited in this way, but may only undertake light work (Byelaw 4). Byelaw 3 lists various occupations which are prohibited for children, even if they would constitute light work. Many more occupations or specific tasks are prohibited by other legislation, including:

- The Employment of Women, Young Persons and Children Act 1920, which prohibits the employment of children in any “industrial undertaking”, including mines and quarries, manufacturing industry, construction and the transport of passengers or goods by road, rail or inland waterway (section 1 (1));

- The Agriculture (Safety, Health and Welfare Provisions) Act 1956, under which it is an offence to cause or permit a child to ride on or drive a vehicle, machine or agricultural implement (section 7);

- The Offices, Shops and Railway Premises Act 1963, which provides that no young person may clean machinery if to do so would expose him to risk of injury (section 18);

- The Betting, Gaming and Lotteries Act 1963, which prohibits the employment of persons under 18 in effecting any betting transaction or in a licensed betting office (section 21);

- The Licensing (Scotland) Act 1976, which prohibits the employment of children in the bar of licensed premises (section 72)
• The Merchant Shipping Act 1995, by virtue of which no person under minimum school leaving age may be employed on a ship registered in the UK, except as permitted by Regulations made under the Act (section 55); and

• The Manual Handling Operations Regulations 1992, which prohibit children from handling any load which is likely to cause injury to them.

It should be noted that this is not an exhaustive list.

The Children (Performances) Regulations 1968 provide that no child taking part in a performance for which a licence is required by section 37 of the Children and Young Persons Act 1963 may be employed in any other occupation on the day or days of that performance or the following day.

Permitted Periods of Employment

The terms of Byelaw 6 should be read in conjunction with section 28(1) of the Children and Young Persons (Scotland) Act 1937 as amended. Section 28(1) of the Children and Young Persons (Scotland) Act 1937 provides that:

28(1) subject to the provisions of this section and of any Byelaws made thereunder, no child shall be employed:

(a) so long as he is under the age of fourteen years;

(b) to do any work other than light work; or

(c) before the close of school hours on any day in which they are under obligation to attend school; or

(d) before seven o’clock in the morning or after seven o’clock in the evening on any day; or

(e) for more than two hours on any day on which he is under obligation to attend school; or

(f) for more than two hours on any Sunday; or

(g) for more than eight hours or, if he is under the age of 15 years, for more than 5 hours on any day:-

(i) on which he is not required to attend school, and

(ii) which is not a Sunday; or

(h) for more than 35 hours or, if he is under the age of fifteen years, for more than 25 hours in any week in which he is not required to attend school; or

(i) for more than four hours in any day without a rest break of one hour; or

(j) at any time of the year unless at that time he has had, or could still have, during a period in the year in which he is not required to attend school, at least two consecutive weeks without employment.
Penalties

Section 31 of the Children and Young Person (Scotland) Act 1937 provides, inter alia, that:

(i) if a person is employed in contravention of section 28 of the Act, or of the provisions of any Byelaws made thereunder, the employer and any other person (other than the person employed) to whose act or default the contravention is attributable shall be liable on summary conviction to a fine not exceeding level 3 on the Standard Scale or, in the case of a second or subsequent offence, not exceeding level 3 on the standard scale. (This is currently £1,000).

(ii) a child under compulsory school age who engages in street trading in contravention of the provisions of section 30, or of any byelaw made thereunder, shall be liable on summary conviction to a fine not exceeding level 1 of the Standard Scale, or in the case of a second or subsequent offence, not exceeding level 1 on the standard scale. (This is currently £200).