

Employment of Children

1998

Byelaws

Hertfordshire
County Council

Education



Hertfordshire
COUNTY COUNCIL

HERTFORDSHIRE COUNTY COUNCIL

BYELAWS

Made 21st August 1998
Coming into force 13th October 1998

Hertfordshire County Council, in exercise of the powers conferred on it by sections 18(2) and 20(2) of the Children and Young Persons Act 1933*, hereby makes the following Byelaws:

Citation and commencement

1. These Byelaws may be cited as the Hertfordshire County Council Byelaws on the Employment of Children 1998 and shall come into force on 13th October 1998.

Interpretation and extent

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

“the authority ” means Hertfordshire County Council;

“child” means a person who is not yet over compulsory school age as defined in section 8 of the Education Act 1996.+

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

* 1933 c.1

+ The Education (School Leaving Date) Order 1997 has set a single leaving date which is the last Friday in June in the school year in which a child reaches 16. The school year commences on 1st September.

“light work ” means work which, on account of the inherent nature of the tasks which it involves and the particular conditions under which they are performed -

- a) is not likely to be harmful to the safety, health or development of children; and
- b) is not such as to be harmful to their attendance at school, their participation in work experience in accordance with section 560 of the Education Act 1996, or their capacity to benefit from the instruction received or, as the case may be, the experience gained.

“parent ” includes any person who has for the time being parental responsibility for a child within the meaning of section 3 of the Children Act 1989.

“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;

“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 1st 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;*
 - (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;
 - (n) in the personal care of residents of any residential care home or nursing home unless under the supervision of a responsible adult.

* 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.

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 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 cafe or restaurant;
 - (h) in riding stables; and
 - (i) domestic work in hotels and other establishments offering accommodation.

Employment before school

6. 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

7.
 - (a) No child may be employed in any work out of doors unless wearing suitable clothes and shoes.
 - (b) No child may be employed unless the employer has carried out a risk assessment for the job to be undertaken.
 - (c) No child shall work any hours other than those specified in The Children (Protection at Work) Regulations 1988 (see Explanatory Note).

Notification of Employment and employment permits

8. Within one week of 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

9. The employer shall keep available for inspection by any duly authorised person at the place in, or in connection with which, the child is employed a written record showing the name, address and date of birth of the child, the occupation in which and the times within which the child may be employed on schooldays and on days when school is not opened

The employer will send to the Local Education Authority on the 1st day of January and the 1st day of July in every year a notification of each child employed by him on that date.

10. Where, on receipt of a notification, the local 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 a work permit.

11. Before issuing a work permit a local authority may require a child to have a medical examination.
12. The work 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. A local authority may amend a child's work permit from time to time on the application of an employer.
15. The local 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 work permit for inspection when required to do so by an authorised officer of the authority or a police officer.

Street Trading

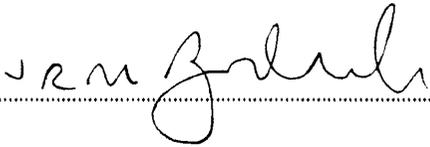
17. No child under the age of 14 may engage in street trading and a child aged 14 or over may not engage in street trading unless:
 - (a) he is employed to do so by his parent, in connection with their retail business and under their direct supervision; and
 - (b) he has been granted a licence to do 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 previously been 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

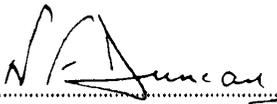
Revocation

21. The Byelaws with respect to the employment of children, and street trading, made by Hertfordshire County Council on the 20th July 1950 and confirmed by the Secretary of State on the 18th December 1950 are hereby revoked.

THE COMMON SEAL of Hertfordshire County Council was affixed to these Byelaws on 21.8.1998 in the presence of:

Signed 

These Byelaws are hereby confirmed by the Secretary of State for Health on 13.10.1998 and shall come into operation on 13.10.1998

Signed 

A Senior Civil Servant on Behalf of the Secretary of State for Health

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). Employers are obliged to notify local authorities of their child employees (byelaw 9). Additional requirements are imposed on the employment of children in street trading, for which a local authority licence is required (byelaws 17-20).

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, hours of work and street trading in particular.

By virtue of section 560 Education Act 1996, 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.

Hours of Employment as amended by; The Children (Protection at Work) Regulations 1998

A child who has attained the age of 13 shall not on any school day;

- (a) be employed at any time except between 7.00am and the beginning of school hours or between the end of school hours and 7.00pm; or
- (b) be employed for a period of or periods amounting in the aggregate to more than two hours; or
- (c) be employed between 7.00am and the beginning of school hours for a period exceeding one hour.

No child who has attained the age of 13 shall be employed on any Saturday or other weekday which is a school holiday;

- (a) for more than eight hours or, if he is under the age of 15, for more than five hours in any day –
 - (i) on which he is not required to attend school, and
 - (ii) which is not a Sunday; or
- (b) for more than thirty-five hours or, if he is under the age of 15, for more than twenty-five hours in any week in which he is not required to attend school; or
- (c) for more than four hours in any day without a rest break of one hour; or
- (d) at any time in the year unless at that time he has had, or could still have, during a period of one year in which he is not required to attend school, at least two consecutive weeks without employment.

No child that has attained the age of thirteen shall be employed for more than two hours on a Sunday.

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, Children and Young Persons 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 Act 1964, which prohibits the employment of children in the bar of licensed premises (section 170) and the Licensing (Occasional Permissions) Act 1983, which prohibits any person under 18 from selling or serving alcohol in premises authorised under the Act (paragraph 5(1) of the Schedule);

the Merchant Shipping Act 1970, 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 51); 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.

Street Trading

Byelaws 17 - 20 permit the employment of children by their parents in street trading, provided that they have been issued with a licence by the local authority. Children who are licensed for street trading will be subject to the byelaws limiting their hours and other conditions of employment by virtue of being employed.

Street trading is also regulated under section 20 of the Children and Young Persons Act 1933, which provides that no child may engage in street trading unless authorised to do so by local authority byelaws. Such authorisation may only be given for children aged 14 or over who are employed by their parents.

Penalties

Section 21 of the Children and Young Persons' Act 1933, as amended provides, inter alia, that:-

If person is employed in contravention of Section 18 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 (£1,000).

If a person is employed in contravention of section 20 of the Act, the employer and any 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 (£1,000); a person under compulsory school age who engages in street trading in contravention of the provisions of section 20, or of any Byelaw made thereunder, shall be liable on summary conviction to a fine not exceeding level 1 on the Standard Scale (£200).