

THE ORKNEY ISLANDS COUNCIL

BYELAWS ON THE EMPLOYMENT OF CHILDREN 2009

Made

14 APRIL 2009

Coming into force

5 MAY 2009

Orkney Islands Council, in exercise of the powers conferred on it by sections 28(2) and 30(2) of the Children and Young Persons (Scotland) Act 1937¹, as amended, hereby makes the following Byelaws:

Citation and commencement

1. These Byelaws may be cited as the Orkney Islands Council Byelaws on the Employment of Children 2009 and shall come into force on 5 May 2009.

Interpretation and extent

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

"the authority" means Orkney Islands Council;

"child" means a person who is under the age of sixteen;

"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)²;

"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 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 newspaper, 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;³
 - (b) to sell or deliver alcohol;
 - (c) to deliver milk;
 - (d) to deliver fuel oils;
 - (e) to collect or sort refuse;
 - (f) in construction work;
 - (g) in employment involving harmful exposure to physical, biological or chemical agents;
 - (h) to collect money or to sell or canvass door to door, except under the supervision of an adult;
 - (i) in work involving exposure to adult material or in situations which are for any reason otherwise unsuitable for children;
 - (j) in telephone sales;
 - (k) 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;
 - (l) 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;

³ 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.

- (m) in the personal care of residents of any residential care home or nursing home unless under the supervision of a responsible adult;
- (n) in any offshore work in the aquaculture industry, including for the avoidance of doubt fish farms.

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 bye law 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;
 - (i) domestic work in hotels and other establishments offering accommodation.

Employment before school

- 6. Subject to the other provisions of these bye laws, 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. No child may be employed in any work out of doors unless wearing suitable clothes and shoes.

Notification of employment and employment permits for children aged 13

8. Within one week of employing a child aged 13, 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. 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.
10. Before issuing 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.

Register of Employers

16. Within one week of employing a child aged 14 or over, the employer must send written notification to the authority stating:
 - (a) The employer's name and address, and type of business; and
 - (b) The total number of children employed by the employer at the date of notification.

For the avoidance of doubt, a new written notification will be required on each occasion on which the employer employs a child. If more than one child is employed at or around the same time the employer may make one notification, provided this notification is within one week of the earliest date of employment.

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 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;

- (c) define the days, and hours, during which, and the places at which the child may engage or be employed in street trading, and
 - (d) 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 Bye laws 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. To the extent not already revoked the Byelaws with respect to the employment of children made by Orkney Islands Council on the Twenty Seventh day of December 1949 and confirmed by the Secretary of State on the Twenty Third day of February 1950 are hereby revoked.

THE COMMON SEAL of Orkney Islands Council was affixed to these Byelaws on
14TH APRIL 2009:

 (signature)

Alistair Buchan, Chief Executive



These Byelaws are hereby confirmed by Scottish Ministers on 29 APRIL
2009 and shall come into force on 5 MAY 2009



_____ (signature)

A member of the staff of the Scottish Ministers (a member of the Senior Civil Service)

**Scottish Government
Education Department**