



Employment of Children Byelaws and Notes

The Children (Protection at Work) Regulations 1998



INVESTOR IN PEOPLE

BYELAWS

Made 23rd day of June 1998

Coming into force 4th day of August 1998

Lancashire 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 Lancashire County Council Byelaws on the Employment of Children 1998 and shall come into force on the 4th day of August 1998.

Interpretation and Extent

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

"the authority" means Lancashire 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;

"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 and 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.

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

* 1933 c.12

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;
 - (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 premises connected 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.

Permitted Employment of Children Aged 14 and Over

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

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

Permitted Employment of Children Under 13

6. This Section has been revoked.

Employment on School Days

7. Subject to other provisions of the Byelaws, children may be employed for up to one hour before the commencement of school on any day which they are required to attend school.

Additional Condition(s)

8. No child may be employed in any work unless the employer ensures that suitable clothing and footwear are worn.

Notification of Employment and Employment Licences

9. 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 or 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 and the outcome made known to the child and parent and that the relevant insurance cover is provided.
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 and ability to take full advantage of this 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 licence.
11. Before issuing an employment licence a local authority may require a child to have a medical examination.
12. The employment licence 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 licence.
14. A local authority may amend a child's employment licence from time to time on the application of the employer.
15. The local authority may at any time revoke a child's employment licence if it has reasonable grounds to believe:
- (a) that the child is being unlawfully employed, or
 - (b) that his health, welfare and 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 employment licence for inspection when required to do so by an authorised officer of the authority or a police officer.

17. The employer must keep and make available for inspection by an authorised officer of the authority or a police officer, a record showing the name, address and date of birth of any child employed by him, and stating the occupation in which, and the hours and days on which, each child is employed.
18. The employer must send to the authority on the first day of January and the first day of July in each year a copy of the record showing the details set out in Byelaw 17.

Revocation

19. The Byelaws with respect to the employment of children made by Lancashire County Council on the 19th day of March 1977 and confirmed by the Secretary of State on the 29th day of September 1977 are hereby revoked.

THE COMMON SEAL of Lancashire County Council was hereunto affixed pursuant to the approval of the Chief Officer on behalf of the County Council using the approved Urgent Business Procedure on the 25th day of June 1998.

DOUGLAS MILLER
Assistant County Secretary

These Byelaws are hereby confirmed by the Secretary of State for Health on 4th August 1998 and shall come into operation on 4th August 1998.

Signed

NF DUNCAN
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 checks on a child's fitness for employment (Byelaws 10 and 11) and for the issue of employment licences, 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 (Byelaws 9 and 18).

These Byelaws are not a comprehensive statement of 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 of 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 by 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 the 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 (as amended) 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 not be employed in any other occupation on the day or days of that performance or the following day.

Hours of Employment

Subject to the statutory provisions and the provisions of the Byelaws no child shall be employed:

- (a) before seven o' clock in the morning or after seven o' clock in the evening on any day, or
- (b) for more than two hours on any day on which he is required to attend school or a maximum of twelve hours in any school week or
- (c) for more than two hours on a Sunday or
- (d) for more than eight hours, or if he is under the age of fifteen years, for more than five hours in any day on which he is not required to attend school and which is not a Sunday or
- (e) for more than thirty five hours or, if he is under fifteen years, for more than twenty five hours in any week in which he is not required to attend school or
- (f) for more than four hours in any day without a break of one hour or
- (g) at any time in a year unless 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 21 of the Children and Young Persons Act 1933 (as amended) provides, inter alia, that:

If a Person is employed in contravention of the Section 18 of the Act, or if 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.

If a person is employed in contravention of Section 20 of the Act, 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. A person under compulsory school age who engages in street trading in contravention of the provisions of Section 20, or any Byelaw made thereunder, shall be liable on summary conviction to a fine not exceeding Level 1 on the Standard Scale.