

SOMERSET COUNTY COUNCIL

BYELAWS ON THE EMPLOYMENT OF CHILDREN 2003

Made:

Coming into force:

Somerset 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^{1[1]}, hereby makes the following Byelaws:

Citation and commencement

1. 1. These Byelaws may be cited as the Somerset County Council Byelaws on the Employment of Children 2003 and shall come into force on

Interpretation and extent

2. In these Byelaws, unless the context otherwise required:
 - "the authority" means Somerset 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 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;

^{1[1]} 1933 c.12

7. "street" includes any highway, any public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;
8. "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;

"week" means any period of seven consecutive days;

"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;^{2[2]}
 - (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;

^{2[2]} 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.

- (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.

Permitted employment of children aged 13

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

Permitted hours of work

- 6. (a) During term time no child may be employed for more than 12 hours per week;
- (b) On school days children may be employed:
 - (i) for up to one hour before school and up to one hour after school as long as the employment is not before 7.00 a.m. or after 7.00 p.m., or
 - (ii) for up to 2 hours after school so long as the employment is not after 7.00 p.m.
- (c) At weekends:
 - (i) children aged 13 to 14 years may be employed for a maximum of 5 hours on Saturdays and up to 2 hours on Sundays;

- (ii) children aged 15 to 16 years may be employed for a maximum of 8 hours on Saturdays and up to 2 hours on Sundays;
 - (iii) no child may be employed before 7.00 a.m. or after 7.00 p.m. on any day;
- (d) During school holidays:
- (i) Children aged 13 to 14 years may be employed for up to 5 hours on week days subject to a maximum weekly limit of 25 hours;
 - (ii) Children aged 15 to 16 years may be employed for up to 8 hours on week days subject to a maximum weekly limit of 35 hours;
 - (iii) No child may be employed before 7.00 a.m. or after 7.00 p.m. on any day;
- (e) Children may not work for more than 4 hours without a break of at least one hour.

Additional conditions

10. 7. (a) No child may be employed in any work out of doors unless wearing suitable clothes and shoes;
- (b) No child under the age of 16 years and no child aged 16 years, shall take part in any performances in which his life or limbs are endangered.

Notification of Employment and employment permits

11. 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. Where, on receipt of a notification, 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.
12. 10. Before issuing an employment permit a local 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.
13. 12. A child may be employed only in accordance with the details shown on his employment permit.
14. 13. A local authority may amend a child's employment permit from time to time on the application of an employer.
15. 14. 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. 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

17. 16. Street trading is permitted on any street in Somerset but notwithstanding that 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) the restrictions as to hours of work contained in clause 6(a) to (f) are observed; and
 - (c) 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. 17. 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. 18. 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 31st 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. 19. 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

20. The Byelaws with respect to the employment of children and street trading made by Somerset County Council on the 19 June 1998 and confirmed by The Secretary of State on the 4 August 1998 are hereby revoked

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 9 and 10) and for the issue of employment permits, setting out the occupation in which a child may be employed and his hours of work (byelaws 8-15). Employers are obliged to notify local authorities of their child employees (byelaw 8). Additional requirements are imposed on the employment of children in street trading, for which a local authority licence is required (byelaws 16-19).

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.

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 16-19 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 a 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 Bye-law made thereunder, shall be liable on summary conviction to a fine not exceeding level 1 on the Standard Scale (£200).