



BURY COUNCIL

BYELAWS

FOR REGULATION OF THE EMPLOYMENT OF CHILDREN

Made 8TH February 2010

Coming into force

Bury Council, in exercise of the powers conferred on it by section 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 Bury Council Byelaws for Regulation of Employment of Children (1998) and shall come into force on

INTERPRETATION AND EXTENT

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

“the Authority” means Bury 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 parental responsibility for a child within the

meaning of section 3 of the Children act 1989, or the day care of a child within the meaning of section 576 of the Education Act 1996.

“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;
- (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, abattoir, butcher’s shop where meat is prepared 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;
- (o) in street trading;
- * 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 14 or over may be employed only in light work.

PERMITTED EMPLOYMENT OF CHILDREN AGED 13

5. Child Employment Byelaws: Light Agricultural and Horticultural Work

- (i) aged between 10 and 13 in occasional light agricultural or horticultural work under adult supervision. Following a change in the law in 2000 the employment of children under the age of 13 is no longer lawful. The Department therefore takes the view that a byelaw in this form would no longer have any effect and should be updated so as to accurately reflect the legal position. The primary legislation (section 18(2)(a)(i) of the Children and Young Persons Act 1933 (1933 c.12) was amended by the Children (Protection at Work) Regulations 2000 (SI) 2000 No.1333) to raise to thirteen the minimum age at which children may be authorised by local authority byelaws to be employed in light Agricultural or horticultural work; and (ii) aged 13 in light agricultural or horticultural work, without qualifying this with the condition that this may only be an occasional basis and under the direct

supervision of their parents or guardians. Since an amendment made to section 18(2)(a)(i) of the Children and Young Persons Act 1933 by the Children (Protection at Work) Regulations 1998 (S 1998 No. 276) the employment of children aged under 14 years in agricultural or horticultural work is not permitted except for 13 year olds who may be employed in light agricultural or horticultural work on an occasional basis by their parents or guardians. Therefore, byelaws can no longer authorise the employment of 13 year old children in light agricultural or horticultural work other than by their parents or guardians on an occasional basis and should be updated accordingly so as to reflect the statutory requirements. Both of these amendments to national legislation give further effect, in England and Wales, to Council Directive 94/EC on the protection of young people at work. A child aged 13 and over may not be employed except in light work in one or more of the following specified categories.

- (ii) agricultural or horticultural work; (under adult supervision)
- (iii) delivery of newspapers, journals and other printed material;
- (iv) shop work, including shelf stacking;
- (v) hairdressing salons;
- (vi) office work;
- (vii) in a café or restaurant;
- (viii) in riding stables; and
- (ix) domestic work in hotels and other establishments offering accommodation.

PERMITTED EMPLOYMENT OF CHILDREN UNDER 13

6. A child aged 10 or over may be employed on an occasional basis by and under the direct supervision of his/her parent in light agricultural or horticultural work.

EMPLOYMENT BEFORE SCHOOL

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

ADDITIONAL CONDITION(S)

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

NOTIFICATION OF EMPLOYMENT AND EMPLOYMENT LICENSES

9. Within one week of employing a child, the employer must send to the Authority written notification stating:
 - (i) his own name address;
 - (ii) the name, address and date of birth of the child;
 - (iii) 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 (a) above, the place of employment;
 - (iv) a statement of the child's fitness to work, and of approval for the child to be employed, completed by the child's parent;
 - (v) details of the school at which the child is a registered pupil;
 - (vi) a statement to the effect that an appropriate risk assessment has been carried out by the employer;
10. Where, on receipt of notification, the Local Authority is satisfied that:

- (i) the proposed employment is lawful;
- (ii) the child's health, welfare or ability to take full advantage of his/her education would not be jeopardised; and
- (iii) 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 the local Authority may require a child to have a medical examination.

12. The employment licence will state:

- (i) the name, address and date of birth of the child;
- (ii) 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 the employment licence.

14. A Local Authority may amend a child's employment licence from time to time on the application of an employer.

15. The Local Authority may at any time revoke a child's employment licence if it has reasonable grounds to believe:

- (i) that the child is being unlawfully employed, or
- (ii) that his/her health, welfare or ability to take advantage of his/her education are suffering or likely to suffer as a result of the employment.

16. A child must produce his/her employment licence for inspection when required to do so by an authorised officer of the authority or a police officer.

REVOCATION

17. The Byelaws with respect to the employment of children (and street trading) made by Bury Council on the 16th day of June, 1977 and confirmed by the Secretary of State on the 20th day of July, 1977 are hereby revoked.

THE COMMON SEAL of Bury Council

was affixed to these Byelaws on _____ in the presence of:

signed:

for Council Solicitor

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

Signed: A. J. Sargent

Deputy Director Safeguarding Group on behalf of Secretary of State for Children's Services

EXPLANATORY NOTES

(These do not form part of the Byelaws)

THE LEGAL FRAMEWORK

1. The control of children's employment is exercised under a combination of primary legislation i.e. the Children and Young Persons Act 1933 as amended and Local Authority Byelaws.
2. Section 18 of the 1933 Act sets out the basic restrictions and empowers Local Authorities to make Byelaws containing further conditions. Section 18 has been amended and now reads:
 - (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; to do any work other than light work
 - (b) before the close of school hours on any day on which he/she is required to attend

school; or

(c) before 7.00a.m. or after 7.00p.m. on any day; or

(d) for more than two hours on any day on which he/she is required to attend school;

or

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

(f) (repealed)

(g) for more than eight hours or, if he/she is under the age of fifteen, for more than five hours in any day; or

(h) for more than thirty-five hours or, if he/she is under the age of fifteen years, for more than twenty-five hours in any week in which he/she is not required to attend school; or

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

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

CHANGES FROM THE EXISTING LEGAL FRAMEWORK

3. Changes are as follows;

- thirteen year old children may work only in occupations listed in the Local Authority Byelaws and under supervision of an adult.
- children must have a two week period free from work during their school holidays each year.
- restrictions on working hours on Saturday and during school holidays are now included in the Children and Young Persons Act 1933, rather than in Byelaws

- Provision for rest breaks is similarly now contained within the Children and Young Persons Act 1933.

THE BYELAWS

4. The Byelaws are framed to contain only those restrictions not contained elsewhere, except where there is an additional reason for their inclusion. In effect this means that the Byelaws now contain;

- a list of permitted jobs for 13 year olds
- a list of prohibited jobs for all children
- the procedure for obtaining an Employment Licence

ADDITIONAL INFORMATION

These Byelaws regulate the types of occupation in which children under school leaving age may be employed and other conditions of their employment.

They provide for checks on a child's fitness for employment, for the issuing of employment licences, setting out the occupation in which the child may be employed and his/her hours of work. Employers are obliged to notify Local Authorities of their employees who are of compulsory school age.

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 of the Education Act 1996, enactments relating to the prohibition or regulation of 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 legislations, including –

Schedule 4 Local Government (miscellaneous Provisions) Act 1982 prohibits the issue street trading consent to persons under the age of 17 years (“street trading” includes 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;)

(“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;)

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

in 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 agriculture 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 (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 (Performance) 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.

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 of the Standard scale (£1,000)