

## WEST DUNBARTONSHIRE COUNCIL

### EXPLANATORY NOTE REGARDING EMPLOYMENT OF CHILDREN BYELAWS (SUMMARY OF CONTENTS)

The Scottish Executive regulations namely, the Children (Protection at Work) (Scotland) Regulations 2006, brings legislation in Scotland into line with European Union directives on the protection of young people at work.

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The following notes are issued for the guidance of parents, young people and employers and give only a broad outline of the relevant sections of the Children (Protection at Work) (Scotland) Regulations 2006 and West Dunbartonshire Council's Byelaws on the employment of children. A full copy of the Byelaws may be obtained from Legal, Democratic & Regulatory Services, Garshake Road, Dumbarton. These notes are intended for guidance only are not an authoritative statement on the law.

The Employment of Children Byelaws regulate the types of occupation in which children under school leaving age may be employed and other conditions of employment. They provide for checks on a child's fitness for employment and for the issue of employment permits which set out the occupation in which the child may be employed and his/her hours of work. Employers are obliged to notify the Education Department and obtain the relevant form from the Office of Births, Deaths and Marriages at the Municipal Buildings, Station Road, Dumbarton.

These Byelaws do not apply to children undertaking work experience under the Education (Scotland) Act 1980. Separate regulations apply to work experience and further guidance on these regulations is available from the Education Department, Council Offices, Garshake Road, Dumbarton G82 3PU.

A separate entertainment licence should be obtained from the Education Department.

#### 1. OVERVIEW

- This Explanatory Note provides general information about the law on employment of children who are under the minimum school leaving age. It tells you what kind of work they may and may not do, how old children must be in order to work, and the number of hours that they are allowed to work. It is not a full statement of the law.

- Children and young people are allowed to work, but only to the extent that their health, development and education are not put at risk. The law therefore places restrictions on the type and amount of work that children and young people can do.

## 2. DEFINITIONS

- **A 'child' means a person who is not, for the purposes of the Education (Scotland) Act 1980, over school age.**

A child who is 16 years of age between 1 March and 30 September in any given school year is deemed to be over school age on 31 May of that school year.

A child who is 16 years of age between 1 October and 28 February in any given school year is deemed to be over school age after the end of the Christmas term of that school year.

- **'Employment' includes assistance in any trade or occupation which is carried on for profit, whether or not payment is received for that assistance.**
- **'Parent' includes any person who has parental responsibilities and rights under the Children (Scotland) Act 1995.**
- **'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 detrimental or harmful to their attendance at school, their participation in vocational guidance or training programmes or a work experience under section 123 of the Education (Scotland) Act 1980 or their capacity to benefit from the instruction received.**

## 3. PERMITTED EMPLOYMENT

### **Permitted employment of children under 13**

- Children under the age of 13 may not be employed, other than in certain forms of entertainment, sports and modelling.

### **Permitted employment of children aged over 13 and under 15 years of age**

A child may not be employed except in light work (up to 12 hours per week) in one or more of the following permitted areas of employment as detailed below:

- agricultural or horticultural work

- delivery of newspapers, journals and other printed material, and collecting payment for same, subject to the provisions of Byelaw 3(I)
- shop work, including shelf stacking
- hairdressing salons
- office work
- car washing by hand in a private residential setting
- in a café or restaurant
- in riding stables
- domestic work in hotels and other establishments offering accommodation

The daily working limits are 2 hours per school day, 2 hours on Sunday and no more than 5 hours on Saturday.

#### **Permitted employment of children aged 15 and over**

A child may not be employed, except in light work, up to 12 hours per week.

The daily working limits are 2 hours per school day, 2 hours on Sunday and no more than 8 hours on Saturday.

#### **Employment before school**

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.

### **4. PROHIBITED EMPLOYMENT**

No child of any age may be employed –

- in a cinema, theatre, discotheque, dance hall or night club, except in connection with a performance given entirely by children (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);
- to sell or deliver alcohol;
- to deliver fuels;
- in a commercial kitchen, except as a waiter or waitress, in any hotel, restaurant or café;
- to collect or sort scrap metal, refuse etc, except in clearing of litter or tidying up of lands and buildings being undertaken as part of a major sporting or recreational event;
- 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;
- in employment involving harmful exposure to physical, biological or chemical agents;
- to sell or canvass door to door;

- in work involving direct exposure to adult material or in situations which are for this reason otherwise unsuitable for children;
- in telephone sales;
- 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;
- 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;
- in the personal care of residents or any residential care home or nursing home unless under the supervision of a responsible adult;
- in any employment directly connected with gaming or betting;
- in any employment in or about any fish curers premises; or
- in driving, feeding or attending to animals in any auction, market or public place.

## 5. PERMITTED PERIODS OF WORKING

What hours can children work?

- There are separate limits on the hours a child may work per week during term time and in the school holidays. There are also limits on the number hours per day. **A rule which applies to all days is that no work should be done by children before 7.00 a.m. or after 7.00 p.m.**
- Limits on working hours are laid down in the Children and Young Persons (Scotland) Act 1937 rather than in Byelaws. The Act was amended recently by the Scottish Executive to lower the number of hours per week children are permitted to work in term time.

What are the limits?

### School days

No more than 2 hours per day to be spent doing paid work.

### Sundays

No more than 2 hours paid employment in the day.

### Saturdays, Bank Holidays or Similar

- No more than 5 hours paid employment in the day if you are under 15.
- No more than 8 hours paid employment in the day if you are 15 or over.

## School Weeks

- No more than 12 hours work in any week (including Saturdays)
- Children under the minimum school leaving age should not work more than 4 hours without a rest break of at least 1 hour. There must be a period of at least 2 weeks in any year which is both school and work free.

## 6. STREET TRADING

The standard Byelaws issued by the Secretary of State included a prohibition on children under the age of 14 engaging in street trading but permitted children of 14 or over to engage in street trading if they were employed to do so by their parents in connection with the parents' retail business and under their parents' direct supervision and where the parents had been granted a licence by the appropriate Local Authority to do so. West Dunbartonshire Council, however, consider it inappropriate that children should be involved in any form of street trading and any application for a street traders licence in terms of the Civic Government (Scotland) Act 1982 would be considered by the Civic Government Licensing Committee of the Local Authority with a recommendation of refusal.

## 7. NOTIFICATION OF EMPLOYMENT AND EMPLOYMENT PERMITS

Within one week of employing a child, the employer must send to the Education Authority and Registrars written notification stating:

- his/her own name and address;
- the name, address and date of birth of the child;
- 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 above, the place of employment;
- a statement of the child's fitness to work, and of approval for the child to be employed, completed by the child's parent/guardian;
- details of the school at which the child is a registered pupil; and
- a statement to the effect that an appropriate risk assessment has been carried out by the employer

Where, on receipt of a notification, the Education Authority or Registrars is satisfied that:

- the proposed employment is lawful;
- the child's health, welfare or ability to take full advantage of his/her education would not be jeopardised;
- the child is fit to undertake the work for which he/she is to be employed they will issue the child with an employment permit.

Before issuing an employment permit an Education Authority/Registrars may require a child to have a medical examination.

The employment permit will state:

- the name, address and date of birth of the child; and
- 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.

Any refusal to issue a permit or withdrawal of a permit will be at the discretion of the Director of Education of the Education Authority.

### **INFORMATION FOR COMPLETION OF PERMIT APPLICATION**

- A child may be employed only in accordance with the details shown on his/her employment permit.
- The Education Authority may amend a child's employment permit from time to time on the application of the employer.
- The Education Authority may at any time revoke a child's employment permit if it has reasonable grounds to believe:
  - that the child is being unlawfully employed, or
  - 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
- A child must produce his/her employment permit for inspection when required to do so by an authorised officer of the Education Authority or a police officer.
- **A computer database will be used to store the information given on this form. The data will be processed in compliance with the Data Protection Act 1998.**