

BYE-LAWS FOR THE EMPLOYMENT OF CHILDREN

The Moray Council have Byelaws for the Employment of Children established in 1999 and amended in 2003. A brief summary of what is contained in these byelaws is given below for the information. Educational establishments, parents, children and potential employers should read to the full text of the byelaws if they need to refer to their specific terms.

In order to decide whether a child may do a particular type of work, the Council must firstly check that it doesn't fall within the list of types of employment which are considered to be unsuitable for all children of school age (usually under 16), and are therefore prohibited. The following is a list of prohibited employment types.

1. PROHIBITED EMPLOYMENT

ALL CHILDREN

- Cinema/theatre/disco/nightclubs except when performances are given by children only
- selling or delivering alcohol/tobacco or fuel/oils
- delivering milk
- in a commercial kitchen
- collecting or sorting refuse
- in any work 3m above ground/floor level
- in work involving chemicals
- collecting money/canvassing door to door unless supervised by an adult
- in work involving adult material
- in telephone sales
- in a slaughterhouse or certain parts of a butcher shop
- in a fairground or amusement arcade
- in connection with gaming or betting
- in personal care of residents in nursing/ residential homes unless supervised by an adult
- in driving/feeding/attending to animals in any auction market
- in a coal store/yard
- as a lift operator
- as a chimney sweep
- in a fish processors/market
- stone merchants or sawmill yards

2. PERMITTED EMPLOYMENT

Next the Council must check if the type of employment is permitted for a child of that age. The older the child, the wider the type of work he/she may do. The following is a list of permitted employment types for children 13 & 14 or over.

CHILDREN AGED 13

Light work (i.e. work not likely to be harmful to the safety/health or development of children and which does not affect their attendance at school) in one of the following areas:

- agricultural or horticultural work (but not operation of tractors/machinery)
- delivery/collecting payment of newspapers (collection under adult supervision)
- shop work including shelf stacking
- hairdressing salons
- office work
- car washing (not on commercial premises)
- in a café/restaurant out with the kitchen
- in riding stables
- domestic work in hotels or other residential establishments out with the kitchen

CHILDREN AGED 14 OR OVER

- light work (light work means work not likely to be harmful to the safety/health or development of children and which does not affect their attendance at school).

3. WORKING HOURS

Next, the Council must check that the hours to be worked fall within set limits. The following shows the hours permitted.

All Days

No work should be done by children before 7am or after 7pm

School Days

- no more than 2 hours per day to be spent doing paid work
- no work to be done during school hours
- no more than one hour of work before school starts in the morning

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 and Sundays or other days off) in which the child is required to attend school

School Holidays

When the child does not require to attend school for a full week:

- no more than 5 hours paid employment per day if you are under 15
- no more than 8 hours paid employment per day if you are 15 or over
- no more than 25 hours paid employment per week if you are under 15
- no more than 32 hours paid employment per week if you are 15 or over

BREAKS	DAILY	YEARLY
Under 16s	Children to work not more than 4 hours without a rest break of one hour	Children must be allowed a period of at least 2 weeks a year which is both school and work free.

4. ADDITIONAL CONDITIONS

Children employed in outdoor work must wear suitable clothes and shoes.

5. DUTIES OF THE EMPLOYER

Before employing a child, an employer must write to the Education Authority* stating:-

- his own name and address
- the name and address of the child
- the hours and days on which the child is to be employed
- the nature of work the child to undertake
- the place of employment of the child
- evidence of parental consent
- details of the child's school
- that an appropriate risk assessment has been carried out

*The School in term time and Council Headquarters if contact cannot be made at the school during school holidays

6. DUTIES OF THE EDUCATION AUTHORITY

Before issuing an Employment Permit the Education Authority needs to be satisfied that:-

- the employment is lawful
- the health, welfare or education of the child is not at risk
- the child is fit and healthy to undertake the work proposed

7. STREET TRADING

No child under 14 may be involved in street trading.

A child aged 14 or over may only be involved in Street Trading if:-

- employed by his/her parents in connection with their business and under their supervision
- the child has been granted a Street Trader's Licence and operates under the rules of the Licence.

A Street Trader's Licence will not be granted if:-

- it would affect the health, welfare and education of the child
- a previous licence held by the child has been revoked (taken away from the child)

Conditions on any Street Traders Licence granted to a child will be:-

- no trading on a Sunday
- licence valid for no more than 12 months and expires on 31 December
- no harassment of the public in any public place
- child to notify authority of any change of address within one week
- the days and hours during which, and the places at which, the child may be involved in street trading must be provided

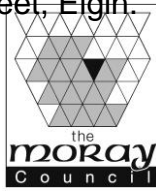
Failure to comply with any of the above conditions may cause the authority to suspend or revoke the licence. The authority may also suspend or revoke a licence if it is believed that continued employment would be prejudicial to the child's health, welfare or education; if the child is found guilty of an offence in connection with the trading; if the child uses the licence for immoral purposes; or if the child fails to notify the authority of a change of address.

8. SUSPENSION OF EMPLOYMENT PERMIT

The Employment Permit may be suspended at any time if:-

- the child is excluded from school
- the child is exempt from attendance at school
- the child is absent from school through illness
- the authority think fit.

For more detailed guidance on the Employment of Children a copy of The Moray Council Byelaws with Respect to the Employment of Children can be obtained from the Education Department, Council Offices, High Street, Elgin.



THE MORAY COUNCIL

BYELAWS WITH RESPECT TO THE

EMPLOYMENT OF CHILDREN

THE CHILDREN (PROTECTION AT WORK) REGULATIONS 1998

THE MORAY COUNCIL

BYELAWS WITH RESPECT TO THE EMPLOYMENT OF CHILDREN

Made 22nd February 1999

The Moray Council

1. These Byelaws may be cited as The Moray Council Byelaws on the Employment of Children 1999.

Interpretation and Extent

2. These Byelaws are made under the Children and Young Persons (Scotland) Act 1937 Section 28 (as amended¹), which also contains the main statutory provisions relating to the employment of children. These Byelaws should be read in conjunction with those provisions (see Appendix).

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

“the Authority” means The Moray Council;

“child” means a person who is not for the purposes of the Education (Scotland) Act 1980² over school age;

“continuous employment” means any period of employment in which there is no interval for a meal and rest or in which the interval for a meal and rest is less than one hour;

“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;

¹ Amended by The Children (Protection at Work) Regulations 1998 S.I. 98/276 Reg. 8

² 1980 c.44

“parent”, in Byelaw 10(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)¹;

“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;

“school day” means a day in which the school wherein the child is enrolled is open (whether for the whole or part of that day) for a meeting at which attendance is compulsory;

“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 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;

“year”, except in expressions of age, means a period of 12 months beginning with 1st January.

Prohibited Employment

4. 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 children²
 - b. To sell or deliver alcohol, except for delivery in sealed containers as part of a larger order agreed with a person over the age of 18³
 - c. To sell or deliver tobacco products, except for delivery of a larger order agreed with a person over the age of 16⁴
 - d. To deliver milk
 - e. To sell, supply or deliver fuel oils
 - f. In a commercial kitchen (eg a kitchen forming part of any food processing factory or outlet, hotel, cooking shop, café, restaurant or fast food outlet)

¹ 1995 c.36

² This does not prevent children taking part in performances under the provision of licence granted in accordance with the Children and Young Persons Act 1963, and the associated Regulations

³ Licensing (Scotland) Act Section 68, 72, 73, 90A and 97A

⁴ Children & Young Persons (Scotland) Act 1937 Section 18 as amended

- g. To collect or sort refuse or in or about any premises where refuse is collected, sorted or sold
- h. 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
- i. In employment involving harmful exposure to physical, biological or chemical agents
- j. To collect money or to sell or canvass door to door except under the supervision of an adult
- k. In work involving exposure to adult material or in situations which are for this reason otherwise unsuitable for children
- l. In telephone sales
- m. 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
- n. 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
- o. Employment connected with gaming or betting
- p. In the personal care of residents of any residential care home or nursing home unless under the supervision of a responsible adult
- q. Employment in driving, feeding or attending to animals in any auction market
- r. Employment in or about a coal store or yard
- s. Employment as a lift operator
- t. Employment connected with clearing or sweeping chimneys
- u. Employment in or about any fish curers premises, fish processors premises or fish market
- v. Employment in or about any stone merchants yard or premises
- w. Employment in or about a sawmill or sawmill yard

Permitted Employment of Children Aged 14 and Over

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

Permitted Employment of Children Aged 13

6. A child aged 13 may not be employed except in light work in one or more of the following specific categories:
 - a. Agricultural or horticultural work¹
 - b. Delivery of newspapers, journals and other printed material, collecting payment for same, subject to the provisions of Byelaw 4(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 (this does not include the kitchen – see paragraph 4(f))
 - h. In riding stables
 - i. Domestic work in hotels and other establishments offering accommodation (this does not include the kitchen – see paragraph 4(f)).

Permitted Employment of Children under 13

7. A child aged 10 or over may be employed on an occasional basis by and under the direct supervision of his parent or guardian in light agricultural or horticultural work¹

Employment on School Days

8. Subject to the other provision of these Byelaws, no children may be employed on any school day for more than one hour in the morning before the commencement of school hours.

Additional Conditions

9. No child may be employed in any work out of doors unless wearing suitable clothes and shoes.
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¹ For the avoidance of doubt this does not permit children to operate tractors or other agricultural machinery

Notification of Employment and Employment Permits

10. Before 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 and the key findings of the risk assessment have been provided to the parent/guardian in accordance with the Health and Safety (Young Persons) Regulations 1997
11. 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.

12. Before issuing an employment permit an education authority may require a child to have a medical examination.
13. 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
14. A child may be employed only in accordance with the details shown on his employment permit.
15. An education authority may amend a child's employment permit from time to time on the application of an employer.
16. 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.
17. 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

18. 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;
 - 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.
19. 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 traders' licence has previously been revoked.
20. A street traders' 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, and
 - c. Require that the child notify the authority within one week of any change of address.
21. 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 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

Suspension of Permit

22. A licence granted in respect of a child may be suspended during any period when:
- a. The child is excluded from the school wherein that child is enrolled
 - b. The child is exempted from attendance at the school wherein that child is enrolled
 - c. The child is prevented from attending the school wherein that child is enrolled by reason of illness or contact with an infectious or contagious disease
 - d. Or the Council think fit.

Revocation

23. The Byelaws With Respect of the Employment of Children (and any amendments thereto) made by The Grampian Regional Council on 28th of July 1977 and confirmed by the Secretary of State on 4th day of October 1977 are hereby revoked, in so far as they apply within the area of the Moray Council.

THE COMMON SEAL of The Moray Council was affixed to these Byelaws on 22nd February, 1999 in the presence of:

-SEAL-

(Sgd) R.D. Burns

**Proper Officer
The Moray Council**

These Byelaws are hereby confirmed by the Scottish Ministers on 29 March 2000 and shall come into force on 7 April 2000 subject to the modifications detailed in the Scottish Education Department's letter of 4 May 1999 to Moray Council.

(Sgd) Joan Fraser

**A member of staff of the
Scottish Ministers Head of Division**

(NOTE: The modifications referred to in the confirmation are incorporated in the published version of these Byelaws)

APPENDIX

28-(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;
 - (aa) to do any work other than light work; or
- (b) Before the close of school hours on any day on which is under obligation to attend school; or
- (c) Before seven o'clock in the morning or after seven o'clock in the evening on any day; or
- (d) For more than two hours on any day on which he is under obligation 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 is under the age of fifteen years, for more than five hours in any day-
 - a. On which he is not required to attend school, and
 - b. Which is not a Sunday; or
- (h) For more than thirty-two hours, or, if he is under the age of fifteen years, for more than twenty-five hours in any week in which he is not required to attend school; or
- (i) For more than four hours in any day without a rest break of one hour; or
- (j) At any time in a year unless at that time 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.

(2) An education authority may make byelaws with respect to the employment of children, and any such byelaws may distinguish between children of different ages and sexes and between different localities, trades, occupations and circumstances, and may contain provisions-

(a) Authorising-

- (i) The employment on an occasional basis of children under the age of fourteen years (notwithstanding anything in paragraph (a) of the last foregoing section) by their parents or guardians in light agricultural or horticultural work;
- (ii) The employment of children aged thirteen years (notwithstanding anything in paragraphs (a) of the last foregoing subsection) in categories of light work specified in the byelaw;
- (iii) The employment of children (notwithstanding anything in paragraph (b) of the last foregoing subsection) for not more than one hour before the commencement of school hours on any day on which they are under obligation to attend school;

(b) Prohibiting absolutely the employment of children in any specified occupation;

(c) Prescribing;

- (i) The age below which the children are not to be employed;
- (ii) The number of hours in each day, or in each week, for which, and the times of a day at which, they may be employed;
- (iii) The intervals to be allowed to them for meals and rest;
- (iv) The holidays or half-holidays to be allowed to them;
- (v) Any other conditions to be observed in relation to their employment;

So however, that no such byelaws shall modify the restrictions contained in the last foregoing subsection save in so far as is expressly permitted by paragraph (a) of this subsection, and any other restriction contained in such byelaws shall have effect in addition to the said restrictions.

(2A) In this section;

“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 or to their participation in work experience in accordance with Section 123 of the Education (Scotland) Act 1980, or their capacity to benefit from the instruction received or, as the case may be, the experience gained;

“week” means any period of seven consecutive days; and

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

(3) Nothing in the section, or in any byelaw made under this section, shall prevent a child from doing anything-

(a) Under the authority a licence granted under this Part of this Act; or

-SEAL-

(Sgd) R.D. Burns

THE MORAY COUNCIL

BYELAWS ON THE EMPLOYMENT OF CHILDREN AMENDMENTS 2002: MADE 23 APRIL 2003

PART 1: PRELIMINARY

Title 1. These byelaw amendments may be cited as The Moray Council Byelaws on the Employment of Children Amendments 2002

Background 2. Under the Children and Young Persons (Scotland) Act 1937 Section 28 (as amended) the Moray Council was empowered to make Byelaws on the Employment of Children.

3. The Moray Council made byelaws entitled "The Moray Council Byelaws on the Employment of Children 1999" which were confirmed by the Scottish Ministers on 29 March 2000, subject to the modifications details in the Scottish Education Department's letter of 4 May 1999 to Moray Council (which modifications are incorporated in the published version of the Byelaws).

4. Further modification to the Byelaws are required to come into line with recent European directives.

PART 2: AMENDMENTS

Permitted employment of children under 13

5. Byelaw 7 shall be deleted as a result of the Children (Protection) at Work) (Scotland) Regulations 2000 (SI2000/149).

Street Trading byelaw 20 shall be amended as follows

6. Byelaw 20 shall be amended as follows:-
(i) in the preamble for the words "shall prohibit the holder from engaging in street trading on" substitute "which may be Considered in relation to any places or times other than on";
(ii) after sub-paragraph (b) insert
"(c) define the days, and hours, during which, and the places at Which the child may engage or be employed in street trading, And"; re-number sub-paragraph "(c)" and "(d)".

PART 3: OPERATION

7. These amendments to the Moray Council Byelaws on the employment of Children 1999 shall come into operation one month

from the date of confirmation by the Scottish Ministers.

PART 4: REVOCATION

8. Subject to the foregoing amendments, the Moray Council byelaws on the Employment of Children 1999 shall remain in full force and effect.

Made by The Moray Council on 23rd Day of April Two Thousand and Three.

R.D. Burns
Chief Legal Officer

These Amendments are hereby confirmed by the Scottish Ministers on 2003

Confirmed by the Secretary of State by virtue of Section 202 of the Local Government (Scotland) Act 1994.

Secretary of State

THE MORAY COUNCIL

BYELAWS ON THE EMPLOYMENT OF CHILDREN AMENDMENTS 2002: .

PART 1: PRELIMINARY

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“(c) define the days, and hours, during which, and the places at which the child may engage or be employed in street trading, and”; re-number sub-paragraph “(c)” and “(d)”.

PART 3: OPERATION

7. These amendments to the Moray Council Byelaws on the Employment of Children 1999 shall come into operation one month from the date of confirmation by the Scottish Ministers.

PART 4: REVOCATION

8. Subject to the foregoing amendments, the Moray Council byelaws on the Employment of Children 1999 shall remain in full force and effect.

Made by The Moray Council on day of Two Thousand and Three

R.D. Burns
Chief Legal Officer

These Amendments are hereby confirmed by the Scottish Ministers on 2003.

Confirmed by the Secretary of State by virtue of Section 202 of the Local Government (Scotland) Act 1994.

Secretary of State