

ANGUS COUNCIL

ITEM No. 19

EDUCATION COMMITTEE - 24 NOVEMBER 1998
POLICY AND RESOURCES COMMITTEE - 8 DECEMBER 1998

PROTECTION OF CHILDREN AT WORK - PROMOTION OF NEW BYELAWS

REPORT BY DIRECTOR OF LAW AND ADMINISTRATION

ABSTRACT

This Report advises members of the recent changes in legislation and seeks approval to promote the attached Byelaws.

1. RECOMMENDATION

The Committee is recommended:

- (a) to note the recent changes in legislation, namely the Children (Protection at Work) Regulations 1998; and
- (b) to instruct the Director of Law and Administration to consult with the Chief Constable, Tayside Police on the proposed Byelaws, to advertise these as required and to submit the Byelaws for approval by the Secretary of State for Scotland.

2. BACKGROUND

A European Directive No 94/33/EC on the Protection of Young People at Work now prohibits 13 year olds from being employed in jobs, unless the jobs are specifically permitted in terms of Byelaws.

The EC Directive was implemented into UK law by the Children (Protection at Work) Regulations 1998 which came into force on 4 August 1998. The Council's existing Byelaws in this regard came into effect in May 1968 and have not been reviewed since that time.

3. THE MAIN CHANGES

The Secretary of State issued model Byelaws which it is recommended should by and large be adopted as attached.

Byelaw 3 lists various occupations which are prohibited for children even if they constitute light work. The Byelaw is not exhaustive and many other legislative provisions prohibit employing children eg Industrial Undertakings (Employment of Women, Children and Young Persons) Act 1920, the Agriculture (Safety, Health and Welfare Provisions) Act 1956 which creates an offence of causing or permitting a child to ride on or drive a vehicle, machine or agricultural implement, 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, 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, the Licensing (Scotland) Act 1976 which prohibits the employment of children in the bar of licensed premises, to name but a few.

Children aged 14 or over are permitted to undertake light work in areas other than those listed in Byelaw 3. Byelaw 5 prohibits children aged 13 from being employed at all except in light work in those areas listed.

The specific changes to the model byelaws which are recommended for approval within Angus are as follows:-

- (i) under Byelaw 3(b) it is recommended that a complete prohibition be placed on the sale or delivery of alcohol. The original draft Byelaw as proposed by the Secretary of State included an exception for the sale or delivery of alcohol in sealed containers. It is not considered appropriate that children of any age should be involved in the sale or delivery of alcohol and accordingly that provision has been amended;
- (ii) the standard Byelaws contained a prohibition on children being used to deliver milk. It is considered that children may be used on milk floats subject to the provision that they are only employed for one hour before school on any school day;
- (iii) the standard Byelaws proposed by the Secretary of State are silent on the use of children as waiters and waitress and the exception included in Byelaw 3(d) is included for clarification purposes;
- (iv) the exception included in Byelaw 3(e) would allow the use of children to collect litter at major sporting or recreational events eg the Open Golf Championship;
- (v) a number of the original occupations prohibited by the old Byelaws are omitted as being out of date eg employment in a confectioner's shop, employment in an ice-cream shop, employment as a marker or attendant in any billiard room, saloon, club or similar premises, as it is considered that these prohibitions are either no longer needed or that the occupations are now socially acceptable;
- (vi) the new Byelaws contain a procedure for obtaining permits from the local authority. This system was used by other local authorities, although not in Angus, prior to the recent change in legislation and it is considered appropriate that a permit system be introduced although this will involve further administrative input from the Education Department.

The major benefits of introducing a permit system are that the Education Authority will have formal knowledge of the employment of any children in their area and will have the right to withdraw the permit should the employment be detrimental to the education or welfare of the child. It will also be a recognised and enforceable system of regulating child employment throughout Angus.

It is however acknowledged that on implementation of the Byelaws immediate steps will require to be taken to inform employers of the requirement to obtain permits.

- (vii) 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 their retail business and under their parents direct supervision and where they had been granted a licence by the authority to do so. It is considered 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 Licensing Committee with a recommendation of refusal.

4. FINANCIAL IMPLICATIONS

The increased administration of running a permit system will have implications on the Education Department. However the Director of Education will assess these and if necessary bring forward a further report.

5. CONSULTATION

The Director of Education, the Director of Planning and Transport, the Director of Recreation Services, the Director of Social Work, the Director of Finance, the Director of Personnel and the Chief Executive have been consulted in the preparation of this report.

Catherine Coull
Director of Law and Administration
November 1998

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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ANGUS COUNCIL

THE EMPLOYMENT OF CHILDREN BYELAWS

Made

Coming into force

Angus Council, in exercise of the powers conferred on it by sections 28(2) and 30(2) of the Children and Young Persons (Scotland) Act 1937, hereby makes the following Byelaws:

Citation and commencement

1. These Byelaws may be cited as the Angus Council Byelaws on the Employment of Children 1998 and shall come into force on 1998.

Interpretation and extent

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

“the authority” means Angus Council;

“child” means a person who is not for the purposes of the Education (Scotland) Act 1980 over school age;

“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:

“partner”, in byelaw 9(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);

“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;¹

¹This 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.

- (b) to sell or deliver alcohol;
- (c) to deliver fuel oils;
- (d) in a commercial kitchen, except as a waiter or waitress in any hotel, restaurant or café;
- (e) 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;
- (f) 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;
- (g) in employment involving harmful exposure to physical, biological or chemical agents;
- (h) to sell or canvass door to door;
- (i) in work involving direct exposure to adult material or in situations which are for this reason otherwise unsuitable for children;
- (j) in telephone sales;
- (k) 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;
- (l) 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;
- (m) in the personal care of residents or any residential care home or nursing home unless under the supervision of a responsible adult;
- (n) in any employment directly connected with gaming or betting;
- (o) in any employment in or about any fish curers premises;
- (p) in driving, feeding or attending to animals in any auction, mart or public place.

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

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, and collecting payment for same, subject to the provisions of byelaw 3(i);
 - (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;
- (i) 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 or guardian 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 commencing not earlier than 7.00am before the commencement of school hours on any day on which they are required to attend school.

Additional conditions

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

Notification of employment and employment permits

9. Within one week of employing a child, the employer must send to the authority written notification stating:
- (a) his/her 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.

10. 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/her education would not be jeopardised; and
 - (c) the child is fit to undertake the work for which he/she is to be employed, it will issue the child with an employment permit.
11. Before issuing an employment permit an education authority may require a child to have a medical examination.
12. 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. A child may be employed only in accordance with the details shown on his/her employment permit.
14. An education authority may amend a child's employment permit from time to time on the application of an employer.
15. 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/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 permit for inspection when required to do so by an authorised officer of the authority or a police officer.
17. Any refusal to issue a permit or withdrawal of a permit will be at the discretion of the Director of Education.

Revocation

17. The Byelaws with respect to the employment of children made by the County of Angus on the twenty first day of February nineteen sixty eight and confirmed by the Secretary of State on twenty eighth May nineteen sixty eight are hereby revoked.

**THE COMMON SEAL OF Angus Council
was affixed to these Byelaws on
1998 in the presence of:**

**Catherine A Coull
Director of Law and Administration**

**These Byelaws are hereby confirmed by the
Secretary of State for Scotland on
1998 and shall come into force on
1998**

**Assistant Secretary
The Scottish Office Education and Industry
Department**

