

BIRMINGHAM CITY COUNCIL

BYELAWS

Made.....31 JULY 1998.....

Coming into force...18 September 1998...

Birmingham City Council, in exercise of the powers conferred on it by sections 18(2) and 20(2) of the Children and Young Persons Act 1933¹, hereby makes the following Byelaws:

Citation and commencement

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

Interpretation and extent

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

"the authority" means Birmingham City 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;

¹ 1933 c. 12

"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;

"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 or other like occupations carried on in any street or public place;

"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
 - (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;

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.

- (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 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;
- (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

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;
 - (c) shop work, including shelf stacking;
 - (d) hairdressing salons;
 - (e) office work;
 - (f) in a cafe or restaurant (subject to the provisions of byelaw 3(e));
 - (g) in riding stables, catteries and kennels;

Employment before school

6. 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.

Additional condition(s)

7. No child may be employed in any work unless wearing suitable clothes and shoes.

Notification of Employment and employment permits

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 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 employer with an employment permit, a copy of which is sent to the child's school.

10. Before issuing an employment permit the authority may require a child to have a medical examination.

11. The employment permit will state:
 - (a) the name, school and date of birth of the child;
 - (b) the occupation in which the child is to be employed, details of the task involved, and the place of employment and name of employer.

12. A child may be employed only in accordance with the details shown on his employment permit.

13. The authority may amend a child's employment permit from time to time on the application of an employer.

14. The 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.

15. The employer must produce the employment permit for inspection when required to do so by an authorised officer of the authority or a police officer.

Street Trading

16. Street trading is 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 the local authority byelaws. Birmingham City Council do not authorise children to be employed in street trading.

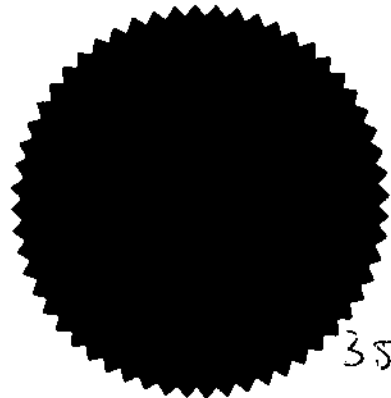
Revocation

17. The Byelaws with respect to the employment of children made by the City of Birmingham District Council on the 1st day of March 1983 and confirmed by the Secretary of State on the 16th day of November 1983 are hereby revoked.

THE COMMON SEAL of
BIRMINGHAM CITY COUNCIL
was affixed to these Byelaws on
31st July 1998
in the presence of:



Solicitor



35045

These Byelaws are hereby confirmed by the Secretary of State for Health on
18 September 1998 and shall come into operation on
18 September 1998

Signed *T.O. Jeffrey*

~~Assistant Secretary~~ *A Senior Civil Servant*
~~Department of Health~~ *behalf of the Secretary of State*
for Health.

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 9).

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 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

Street trading is 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 Byelaw made thereunder, shall be liable on summary conviction to a fine not exceeding level 1 on the Standard Scale (£200).