

ITEM NO: 9 APPENDIX 1

CITY OF SOUTHAMPTON BYELAWS

Made: March 2010
Coming into force: 1st June 2010

Southampton City Council, in exercise of the powers conferred on it by Sections 18(2) and 20(2) of the Children and Young Persons Act 1922 (c.12), hereby makes the following Byelaws:

CITATION AND COMMENCEMENT

1. These Byelaws may be cited as the Southampton City Council Byelaws on the Employment of Children 2010 and shall come into force on the first day of June 2010.

INTERPRETATION AND EXTENT

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

“**the Authority**” means the Southampton City Council

“**child**” means a person who is not yet over compulsory school age as defined in Section 8 of the Education Act 1996;

“**cycle**” has the meaning given to it by section 192 of the Road Traffic Act 1988;

“**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;

“**motor vehicle**” has the meaning given to it by Section 183 of the Road Traffic Act 1988;

“**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;

“**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, discothèque, 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 license granted in accordance with the Children and Young Persons Act 1963, and the associated Regulations);*
 - (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 3 metres above ground level or, in the case of internal work, more than 3 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 and telephone canvassing;
 - (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;
 - (o) car washing by hand where the motor vehicle is on a highway and is stopped at traffic lights or at a junction.

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 IN LIGHT AGRICULTURAL OR HORTICULTURAL WORK

5. A child aged 13 years may be employed on an occasional basis by their parents or guardians in light agricultural or horticultural work.

OTHER 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 specified categories:

- (a) Delivery of newspapers, journals and other printed material, subject to the provisions of Byelaw 3(i);
- (b) Shop work, including shelf stacking;
- (c) Hairdressing salons;
- (d) Office work;
- (e) Car washing by hand in a private residential setting;
- (f) In a café or restaurant;
- (g) In riding stables; and
- (h) Domestic work in hotels and other establishments offering accommodation.

EMPLOYMENT DURING SCHOOL HOURS

- 7. No child shall be employed, nor shall any parent permit a child to be employed, during any period in which a child is absent from school on account of sickness.

EMPLOYMENT BEFORE SCHOOL

- 8. 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 CONDITIONS

- 9. No child may be employed in any work out of doors unless wearing suitable clothes and shoes.
- 10. No child may be employed in any work that wholly or mainly involves the child riding a cycle unless the cycle complies with regulations made under Section 81 of the Road Traffic Act 1988 (Regulation of brakes, bells etc. on pedal cycles). *The Pedal Cycles (Construction and Use) Regulations 1983 apply for the purposes of Section 81 of the Road Traffic Act 1988 by virtue of Section 2(2) of the Road Traffic (Consequential Amendments) Act 1988.*

NOTIFICATION OF EMPLOYMENT AND EMPLOYMENT PERMITS

- 11. 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 approval of the child to be employed, completed by the child's parent;
 - (e) details of the school at which the child is a registered pupil including the dates of the school's holidays; and

- (f) a statement to the effect that an appropriate risk assessment has been carried out by the employer.
12. Where, on receipt of a 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 child with an employment permit.
13. Before issuing an employment permit a local authority may require a child to have a medical examination.
14. 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.
15. A child may be employed only in accordance with the details shown on his employment permit.
16. The Authority may amend a child's employment permit from time to time on the application of an employer.
17. 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.
18. 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.

REVOCATION

19. The Byelaws with respect to the employment of children made by Southampton City Council on 15th September 1998 and confirmed by the Secretary of State on the 3rd November 1998 are hereby revoked.

The **COMMON SEAL** of Southampton City Council was affixed to these Byelaws on the XXth day of March 2010
In the presence of :-

Mark Heath
Solicitor to the Council
Authorised Signatory

The foregoing byelaws are hereby confirmed
By the Secretary of State for Children, Schools
and Families on the day of 2010
and shall come into operation on 1st June 2010.

Deputy Director
Department for Children, Schools and Families
Signed:

Senior Civil Servant on behalf of the Secretary of State.
Date:

EXPLANATORY NOTES

(These notes are not part of the Byelaws)

These Byelaws regulate the types of occupation in which children under school leaving age may be employed (Byelaws 3-6) and other conditions of their employment. They provide for checks on a child's fitness for employment (Byelaws 12-13) and for the issue of employment permits, setting out the occupation in which a child may be employed and his hours of work (Byelaws 11 -18). Employers are obliged to notify local authorities of their child employees (Byelaw 11).

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 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.

The Children (performances) Regulations 1968 provide that no child taking part in a performance for which a license 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.

PROHIBITED AND PERMITTED EMPLOYMENT

Children aged 13 are limited to employment in the occupation listed (Byelaws 5 and 6).

Children aged 14 or over are not limited in this way, but may be able to 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 under legislation, including:

- (a) 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));
- (b) the Children and Young Persons Act 1933 (Part II and Section 107) (including Section 20, under which the Local Authority does not permit the employment of young persons aged under 17 in street trading) as amended by the Children (Protection at Work) Regulations 1998, the Children (Protection at Work) Regulations 2000 and the Children (Protection at Work)(no.2) Regulations 2000;
- (c) 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);
- (d) the Children and Young Persons Act 1963 (Part II), which restricts the employment of children and young persons and their participation in entertainment or performances;
- (e) the Offices, Shops and Railway Premises Act 1963, which provides that no young person may clean machinery if to do so would expose him/her to risk of injury (Section 18);
- (f) the Riding Establishments Act 1964, amending the Riding Establishments Act 1970 (Section 1(4A)) which provides that no child under the age of 16 may be left in management or control of a riding establishment, provide horses for hire at such an establishment or supervise instruction of others in riding at such an establishment;
- (g) the Manual Handling Operations Regulations 1992 (as amended), which prohibit children from handling any load which is likely to cause injury to them.
- (h) the Merchant Shipping Act 1995 (Section 55), 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 the Regulations made under the Act;
- (i) the Education Act 1996 (Sections 558-560) which define ‘child’ for the purposes of employing children, provide power for local

- authorities to prohibit or restrict the employment of children and provide for the provision of work experience for children;
- (j) the Working Time Regulations 1998 which sets limits on the permitted hours of work for children and young persons;
 - (k) the Criminal Justice and Court Services Act 2000 (Part II) which provides general protection in relation to the employment of children and restrictions in relation to persons who may be employed to work with or in proximity to children;
 - (l) the Gambling Act 2005, which prohibits the employment of a child or young person to provide facilities for gambling, in facilities for gambling in connection with lottery or football pools, to perform any function in premises where and at any time facilities are provided for the playing of bingo or facilities for gambling are provided in accordance with a club gaming permit, in premises where gaming machines are situated and a child is required to perform a function in relation to such machines, or to perform any function in premises which have a casino, betting or adult gaming centre licence in effect (Sections 51-55);
 - (m) the Licensing Act 2003, which prohibits unaccompanied children on premises used exclusively or primarily for the supply of alcohol for consumption on the premises (Section 145) and the unsupervised sale or supply of alcohol by children (Section 153);

It should be noted that this is not an exhaustive list and the law in relation to employment of children is regularly updated.

PENALTY FOR BREACH OF BYELAWS

If a child is employed in contravention of any of the forgoing Byelaws, the employer and any person (other than the child employed) to whom the contravention is attributable, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000 in 2010).

Note: A child who attains the age of 16 between 1 September and 31 August (inclusive) is of compulsory school age until the last Friday in June of that year. This is the only date a child is eligible to leave school even though they may have already been issued with their National Insurance Number.

MAXIMUM PERMITTED WORKING HOURS

Employment may only take place between 7am and 7pm

ALL AGES

Mondays to Saturdays – not before 7am or after 7pm

Sundays – not before 7am or after 11am – 2 hours only

School days – 1 hour before school and 1 hour after school or 2 hours after school

13-15 YEARS

Saturdays and other school holidays – 5 hours maximum daily

Not more than 25 hours per week.

15 YEARS PLUS

Saturdays and other school holidays – 8 hours maximum daily

Not more than 35 hours per week

**No child shall be employed for more than 4 hours continuously
Without taking a continuous period of not less
Than 1 hour for rest and recreation.**