

**PROTECTION OF CHILDREN AT WORK  
EMPLOYMENT OF CHILDREN BYELAWS**

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**1.0 SUMMARY**

1.1 Argyll and Bute Council made byelaws on 14 August 2002 in relation to the employment of Children at work based on a model bylaw prepared by the Scottish Executive. The byelaws were confirmed by the Scottish Ministers on 24 June 2003 and came into force on 29 August 2003. These byelaws regulate the types of work for which children under school leaving age may be employed and also covers their conditions of employment. They provide for checks on a child's fitness for employment and to the issue of employment permits, setting out the circumstances under which children may legitimately be employed and the terms of that employment. In terms Section 201 of the Local Government (Scotland) Act 1973 byelaws require to be reviewed not later than 10 years from the coming into force of the byelaw. The byelaws were last reviewed in May 2013.

The current byelaws are as flexible as is currently permitted under the primary legislation.

**2.0 RECOMMENDATIONS**

2.1 It is recommended that no change is made to the current byelaws at this time.

**3. DETAIL**

3.1 The control of children's employment is exercised under the Children and Young Persons (Scotland) Act 1937 as amended.

Section 28 of that Act sets out the basic restrictions and allows the Council as an education authority to make byelaws containing further restrictions. In terms of Section 28 of the 1937 Act as amended, the minimum age at which a child may be employed is 14. Children aged 14 to 16 are only permitted to be employed in light work. Children aged 14 to 16 are **not** permitted to work during the following periods:

- during school hours;
- before 7 o'clock in the morning or after 7 o'clock in the evening;
- for more than 2 hours on any school day;

- for more than 2 hours on any Sunday;
- for more than 4 hours in any day without a rest break of 1 hour;
- in a school week for not more than 12 hours shall be worked; the daily limits in respect of term time are –  
     2 hours per school day;  
     2 hours on a Sunday  
     8 hours over 15 years and 5 hours under 15 years on a Saturday;
- at any time in the year unless they have had two consecutive weeks without employment during the school holidays;
- if aged under 15 for more than 5 hours on any day which is not a school day or a Sunday or for more than 25 hours in any week not required to attend school;
- if aged 15 for more than 8 hours on any day which is not a school day or a Sunday or for more than 35 hours in any week when not required to attend school.

The Council's byelaws allow 13 year olds to work on an occasional basis in categories of light work. These categories are listed in byelaw 5 and include agricultural or horticultural work where employed by the child's parents or carers; delivery of newspapers, journals and other printed material and collection of payment for same (where they are collecting payment they must be under the supervision of an adult); 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. Other key provisions are included in the following.

- Byelaw 3 lists employment which is not permitted for a child of **any age**.
- Byelaw 6 states that children can only be employed for a maximum of 1 hour after 7 o'clock in the morning before the start of the school day on any day in which they are required to attend school.
- Byelaw 7 states that no child may be employed in any work out-of-doors unless wearing suitable clothes and shoes.
- Byelaws 16 to 19 regulate street trading and state that children over 14 are only able to be employed in street trade if they are in the employment of and supervised by their parents. Children over 14 are not permitted to take part in street trading on Sunday and require to obtain a street trader's licence from a local authority.

If a person is employed in contravention of Section 28 of the Act or any of these byelaws, the employer or any other person who is responsible for the act of default shall be liable to a fine up to level 3 of the standard scale.

In terms of the byelaws, a completed application form for a permit requires to be submitted by the prospective employer to Governance and Law within 1 week of employing the child including details of the employer's name and address, the name and address of the child, the hours and days in which the child is to be employed, the occupation in which the child is to be employed, the tasks involved and place of employment. The employer is also required to provide a statement of the child's fitness to work and of approval by the parents of the child.

The employer and parent require to provide details of the school at which the child is a registered child or young person. The Council requires the employer to confirm that an appropriate risk assessment has been carried out and that any actions found to be necessary have been taken. When the Council receives the application form, the appropriate officer request the head teacher/campus principal to complete the relevant part of the application form stating that the child's health, welfare or ability to take full advantage of his or her education would, or would not, be jeopardised by the employment.

There is no requirement for the child to have a medical examination but the education authority can require one to be carried out in specific cases.

The Scottish Government has advised there are no current proposals to amend the law in relation to the employment of children.

The Regional Procurator Fiscal has been consulted and has advised they do not have any views to offer on the current byelaws nor any potential amendments to them.

Police Scotland were also consulted and have not provided a response.

#### 4.0 **CONCLUSION**

In view of the fact that there are no proposals by the Scottish Government to amend the law at this time and that Police Scotland and the Regional Procurator Fiscal have not recommended any change it is recommended that there be no change to the byelaw at this time.

#### 5.0 **IMPLICATIONS**

5.1 Policy: The application of the Byelaw process is consistent across all areas of Argyll and Bute.

5.2 Financial: None

5.3 Legal; Byelaws are a legal process subject to section 201(1) of the Local Government (Scotland) Act 1973 and Scottish Government guidance, approval and confirmation.

5.4 HR: None

5.5 Fairer Scotland Duty: None

5.5.1 Equalities - protected characteristics: None

5.5.2 Socio-economic Duty: None

5.5.3 Islands: None

5.6 Risk: Process ensures byelaw continues to be fit for purpose

5.7 Customer Service: None

5.8 Climate Change: None

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