

CONTENTS

Pages 2-6 Byelaws Relating to the Employment of Children

Pages 7-8 Explanatory Notes

Pages 9-13 Questions & Answers

**SCOTTISH BORDERS COUNCIL
BYELAWS RELATING TO THE EMPLOYMENT OF CHILDREN 2002**

Made 16 April 2002

The Scottish Borders Council as Education Authority in exercise of their powers under Sections 28(2) and 30(2) of the Children and Young Persons (Scotland) Act 1937 as amended by the Children (Protection at Work) Regulations 1998 (SI 1998/276) and further amended by the Children (Protection at Work) (Scotland) Regulations 2000 (SI 2000/149), and all other powers enabling them in that behalf hereby make the following byelaws relating to the employment of children.

1. INTERPRETATION OF TERMS

1.1 In these Byelaws unless the context otherwise requires:-

- (i) "Education Authority" means the Scottish Borders Council, acting as Education Authority for the Scottish Borders;
- (ii) "Child" means a person who is not for the purposes of the Education (Scotland) Act 1980, as amended, over school age;
- (iii) "School Day" means a day on which the school where the child is enrolled is open, whether for the whole or part of that day, for a meeting at which attendance is compulsory;
- (iv) "Non-School Day" means a day, other than Sunday, on which the school where the child is enrolled is not so open;
- (v) "Employment" includes assistance in any trade or occupation which is carried on for profit, whether or not payment is received for that assistance;
- (vi) "Continuous Employment" means any period of employment in which there is no interval for rest and refreshment or in which the interval for rest and refreshment is less than one hour;
- (vii) "Harvesting" means the gathering of crops;

(viii) "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 or, as the case may be, the experience gained;

(ix) "Parent" 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);

(x) "Public place" includes any public park, garden, sea beach or railway station, bus station and any ground to which the public for the time being have or are permitted to have access, whether on payment or otherwise;

(xi) "Street" includes any highway and any public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

(xii) "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;

(xiii) "Week" means any period of seven consecutive days;

(xiv) "Year" means, except in expressions of age, a period of twelve months from the commencement date of the Work Permit.

1.2 The Interpretation Act 1978, applies to the interpretation of these Byelaws as it applies to an Act of Parliament.

2. MINIMUM AGE

2.1 The minimum age from which a child may be employed is fourteen years.

2.2 Notwithstanding Byelaw 2.1, a child aged thirteen years may be employed in certain prescribed types of work as specified in Byelaw 7 of these Byelaws.

3. EMPLOYMENT BEFORE AND AFTER SCHOOL

- 3.1 In the morning, such employment shall not be before 7 a.m. and shall not be for more than one hour before the commencement of a School Day.
- 3.2 If a child works both mornings and evenings it shall be for the same employer.

4. INTERVALS FOR MEALS AND REST

- 4.1 Once a child has worked continuously for 2 1/2 hours he shall be entitled to a rest interval of not less than fifteen minutes.
- 4.2 For the purpose of calculating the total number of hours worked, rest intervals of fifteen minutes or more shall be included.

5. PROHIBITED OCCUPATIONS

Occupations in which a child shall not be employed are:

- 5.1 Employment in, or in connection with, the sale or delivery of excisable liquor except where exclusively sold in sealed containers for consumption off the premises.
- 5.2 Employment in, or in connection with, gaming or betting, including bingo halls and betting shops.
- 5.3 Employment as an attendant or assistant in any shop or hall used for the purpose of public amusement by means of automatic machines, shooting ranges, games of chance or skill or other devices of a similar nature.
- 5.4 Employment in any cinema, dance hall, discotheque, theatre or other place of public entertainment except where the performances are entirely by children or if the child himself is a performer.
- 5.5 Employment in or in connection with, any racecourse or dog racing enclosure.
- 5.6 Employment in or connected with the cleaning of windows or in any work that is more than three metres above the ground level, or in the case of internal work, more than three metres above floor level.

- 5.7 Employment in, or in connection with the sale, delivery or storage of liquid and gaseous fuels of any description.
- 5.8 Employment in connection with the storage of rags, waste paper, refuse or scrap metal.
- 5.9 Employment in or about a coal yard, builder's yard or timber yard.
- 5.10 Employment in or about any slaughterhouse, knackers yard, fish, poultry or game processing plant, butcher shop or any other such premises.
- 5.11 Employment at or in the vicinity of any machine prescribed as dangerous in an order made under Section 19 of the Offices, Shops and Railway Premises Act 1963; excluding agricultural machinery which is covered by other legislation.
- 5.12 Employment in the cooking or preparation of foods for commercial or institutional purposes including without prejudice to the foregoing generality filleting or butchering, or employment which requires attendance in areas where cooking equipment such as deep fat fryers are used.
- 5.13 Employment in or connected with the cleaning of public conveniences.
- 5.14 Employment to deliver milk.
- 5.15 Employment involving harmful exposure to physical, biological, chemical or radioactive agents.
- 5.16 Employment to collect money or to sell or canvass door to door, except under the supervision of a responsible adult.
- 5.17 Employment involving exposure to adult material or in situations which are for this reason unsuitable for children.
- 5.18 Employment in telephone sales.
- 5.19 Employment in the personal care of residents of any residential care home or nursing home, except under the supervision of a responsible adult.

6. PERMITTED EMPLOYMENT OF CHILDREN AGED 14 OR OVER

6.1 A child aged fourteen or over may be employed only in light work.

7. PERMITTED EMPLOYMENT OF CHILDREN AGED 13

A child aged thirteen may be employed only in light work in one or more of the following specified categories:

7.1 light agricultural or horticultural work under the direct supervision of a parent or guardian;

7.2 delivery of newspapers, journals and other printed material, and collecting payment for same, subject to the provisions of Byelaws 5.16 and 5.17;

7.3 shop work, including shelf stacking;

7.4 hairdressing work;

7.5 office work;

7.6 car washing by hand in a private residential setting;

7.7 in a cafe or restaurant;

7.8 in riding stables;

7.9 domestic work in hotels and other establishments offering accommodation.

8. ADDITIONAL CONDITIONS

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

9. WORK PERMITS

9.1 Other than in the circumstances specified in Byelaw 10.1 below a Work Permit issued by the Education Authority shall be required before a child may be employed.

9.2 Application for the issue of a Work Permit shall be made by the prospective employers, countersigned by the parent or guardian and school, to the Director of Education on a form issued by the Education Authority. The employers shall sign a statement that an appropriate risk assessment will be carried out. The employers shall also provide the details of the school at which the child is a registered pupil at the time of making the application.

9.3 Where appropriate, the Director of Education shall obtain from the head teacher of the School wherein the child is enrolled a report as to the effect (if any) which the proposed employment is likely to have on his fitness to obtain the full benefit of the education provided for him. If it is considered to be desirable by the Education Authority a similar report may also be called for from the School Medical Officer or the child's General Practitioner.

9.4 If the Education Authority are satisfied by such reports that the proposed employment is lawful, that it is not likely to be prejudicial to the health of the child or otherwise to render him unfit to obtain the full benefit of such education, the Director of Education shall issue to the employers a Work Permit which shall state the following:

- (i) name and address of the employers;
- (ii) name, address and date of birth of the child;
- (iii) name and address of parents or guardians;
- (iv) school presently attended by the student;
- (v) the specific hours and days on which the child is to be employed;
- (vi) the occupation and details of tasks;
- (vii) the place of employment; and
- (viii) the period of the validity of the Work Permit.

A copy of the Work Permit shall be issued to the parent or guardian of the child.

9.5 The Education Authority may amend a child's Work Permit from time to time on the application of the employers.

9.6 While the child continues in the employment specified, the Work Permit shall be retained by the employers and shall be exhibited by him on demand to any police officer or authorised officer of the Education Authority.

- 9.7 The Education Authority may withdraw a Work Permit at any time if the Authority are satisfied, either that the employment is prejudicial to the health or welfare of the child or that it renders him unfit to obtain the full benefit of the education provided for him, or that the employment is in breach of any of these Byelaws or any other statutory provision, or that it is not in the best interests of the child.
- 9.8 On the expiry date of the period for which it was granted, on the withdrawal of the permit or on the termination of employment the employers shall return the Work Permit to the Director of Education.
- 9.9 In the event that a parent or guardian is aggrieved by a decision of the Education Authority to refuse to issue a child's Work Permit or to withdraw a child's Work Permit then that parent or guardian shall have a right of appeal to the Director of the Education Authority. If any parent or guardian decides to appeal, such appeal shall be in writing stating the reasons for the appeal and made within fourteen days of the date of the refusal or withdrawal of a child's Work Permit. A written acknowledgement will be issued within five days of receipt of the appeal. The Director of the Education Authority may make any further enquiries and may invite the appellant and other interested parties to make oral or written representations as he sees fit in order to reach a decision. A written decision shall be communicated to the parent or guardian in writing within twenty-one days of receipt of the letter of appeal.

10. HARVESTING WORK LICENCE

- 10.1 Any child aged 14 or over or any child aged 13 with parental supervision may be employed in harvesting.
- 10.2 Any child wishing to be employed in harvesting shall obtain a Harvesting Work Licence.
- 10.3 Applications for Harvesting Work Licences shall be available on demand from the school where the child is enrolled, all public libraries in the Scottish Borders or Lifelong Learning, Council Headquarters, Newtown St Boswells.
- 10.4 Where appropriate the Director of Lifelong Learning shall obtain from the head teacher of the school wherein the child is enrolled a report as to the effect (if any) which the proposed employment is likely to have on his fitness to obtain the full benefit of the education provided for him. If it is considered to be desirable by the Education Authority a similar report

may also be called for from the School Medical Officer or the child's General Practitioner.

- 10.5 If the Education Authority are satisfied by such reports that the proposed employment is not likely to be prejudicial to the health of the child or otherwise to render him unfit to obtain the full benefit of such education the Director of Lifelong Learning shall issue to the child a Harvesting Work Licence which shall state the following:-

- (i) the name, address and age of the child;
- (ii) the specific school days on which the child may be employed in harvesting;
- (iii) the specific hours of the day and week during which that child may be employed in harvesting;
- (iv) the specific non-school days and Sundays on which the child is permitted to be employed; and
- (v) the period of the validity of the licence.

A copy of the Harvesting Work Licence shall be issued to the parent or guardian of the child.

- 10.6 The Education Authority may withdraw a Harvesting Work Licence at any time if the Authority are satisfied, either that the employment is prejudicial to the health of the child or that it renders him unfit to obtain the full benefit of the education provided for him, or that the employment is in breach of any of these bye-laws or any other statutory provision, or that it is not in the best interests of the child.
- 10.7 In the event that a parent or guardian is aggrieved by a decision of the Education Authority to refuse to issue a Harvesting Work Licence or to withdraw a child's Harvesting Work Licence then that parent or guardian shall have a right of appeal to the Director of Lifelong Learning. If any parent or guardian decides to appeal, such appeal shall be in writing stating the reasons for the appeal and made within fourteen days of the date of the refusal or withdrawal of a child's Harvesting Work Licence. A written acknowledgement will be issued within five days of receipt of the appeal. The Director of Lifelong Learning may make any further enquiries and may invite the appellant and other interested parties to make oral or written representations as he sees fit in order to reach a decision. A written decision shall be communicated to the parent or guardian in writing within twenty-one days of receipt of the appeal.

- 10.8 A child who has obtained a Harvesting Work Licence may work for any employers holding an Employment of Children Licence. The employers shall keep a written record of the name, address and serial number of the Harvesting Work Licence of any child employed by him in harvesting, and shall produce the record on request to any authorised officer of the Education Authority.
- 10.9 Any person wishing to employ a child in harvesting on any day shall hold an Employment of Children Licence.
- 10.10 Application forms for Employment of Children Licences shall be available on demand at all public libraries in the Scottish Borders or Lifelong Learning, Council Headquarters, Newtown St. Boswells.
- 10.11 An Employment of Children Licence shall entitle the employers to employ any child holding a Harvesting Work Licence. The Employment of Children Licence shall state the name and address of the employers, the location where children may be employed and the maximum daily and weekly hours of work for children of different age groups.

11. STREET TRADING

- 11.1 No child under the age of fourteen may engage in street trading and a child aged fourteen 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; and
 - (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.
- 11.2 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 trader's licence has previously been revoked.
- 11.3 A child may not engage in street trading on a Sunday.
- 11.4 A child may not engage in street trading on any School Day.

- 11.5 On a Non-School Day, a child may be employed between the hours of 7 a.m. and 7 p.m. for up to four hours. Once a child has worked continuously for 2 1/2 hours he shall be entitled to a rest interval of not less than fifteen minutes. For the purpose of calculating the total number of hours worked, rest intervals of fifteen minutes or more shall be included.

- 11.6 A child may not engage in street trading at any public place or street which is not defined in Byelaw 1.

- 11.7 A street trader's licence which may be considered in relation to any places or times other than on a Sunday shall:

- (a) be valid for not more than 12 months from the date of the Licence;
- (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;
- (c) define the days, and hours, during which, and specify the exact locations of the public places and streets at which the child may engage or be employed in street trading;
- (d) require that the child notify the authority within one week of any change of address.

- 11.8 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 street 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.

12. REVOCATION

- 12.1 The Byelaws with respect to the employment of children made by The Scottish Borders Council on the Twenty Fifth day of April Nineteen Hundred and Ninety Five and confirmed by the Secretary of State on the Twenty Ninth day of March Nineteen Hundred and Ninety Six are hereby revoked.

13. CITATION

- 13.1 These Byelaws may be cited as The Scottish Borders Council Byelaws on the Employment of Children 2002.

These Byelaws relating to the employment of children were made under the Common Seal of The Scottish Borders Council on the Sixteenth day of April Two Thousand and Two and confirmed by the Scottish Ministers on the day of Two Thousand and Two which Byelaws shall come into operation on the day of Two Thousand and Two.

EXPLANATORY NOTE TO THE SCOTTISH BORDERS COUNCIL BYELAWS

RELATING

TO THE EMPLOYMENT OF CHILDREN 2002

(This Explanatory Note is not part of the Byelaws)

Provisions relating to the employment of schoolchildren are set out in the Children and Young Persons (Scotland) Act 1937 as amended by the Children (Protection at Work) Regulations 1998 (SI 1998/276) and further amended by the Children (Protection at Work) (Scotland) Regulation 2000 (SI 2000/149). The 2000 Regulations were in implementation of European Directive 94/33/EC which required education authorities to revise existing Byelaws to remove the provision allowing children between the ages of 10-12 to undertake light work in agriculture or horticulture. The Scottish Borders Council, exercising the powers it has been given under Sections 28(2) and 30(2) of the 1937 Act, has created these Byelaws to outline further conditions about children's employment in the Borders. Certain provisions do not appear in these Byelaws to avoid duplication and conflict with the provisions in the Children and Young Persons (Scotland) Act 1937. However, for your ease of reference the key provisions of the Act are referred to in order to assist in the full understanding of the legislation.

Byelaw 2 - Minimum Age

The minimum age from which a child may be employed is now 14 years. However, children aged 13 may be employed in prescribed types of work which are specified in Byelaw 7. Byelaw 10 also allows children aged 13 with parental supervision to be employed in harvesting. Children aged 13 are not permitted to be employed in jobs not expressly specified in these Byelaws.

It should be noted that other legislation prohibits other specific tasks and occupations, including but not limited to the following:

1. 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));
2. 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);

3. 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);
4. The Betting Gaming and Lotteries Act 1963, which prohibits the employment of person under 18 in effecting any betting transaction or in a licensed betting office (section 21);
5. The Licensing (Scotland) Act 1976, which prohibits the employment of children in the bar of licensed premises (section 72);
6. The Merchant Shipping Act 1995, 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 55);
7. The Manual Handling Operations Regulations 1992, which prohibit children from handling any load which is likely to cause injury to them;
8. The Children (Performance) 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; and
9. The Children (Protection at Work) (Scotland) Regulations 2000 also provides that only persons aged at least 16 who are also over the compulsory school age may take part in dangerous performances.

Byelaw 3 - Employment on School Days

The Act provides that a child may be employed for up to two hours on a school day. In the afternoon and evenings, such employment shall not be before the close of school and must not be after 7p.m. Byelaw 3.1 deals only with employment during the mornings of school days.

Employment on Sundays

There is a restriction placed on working hours on Sundays.

1. Employment of children on Sundays remains limited to two hours duration between 7am and 7pm.

Employment on Non-School Days

There are restrictions placed on working hours on non-school days.

1. Children aged 13 and 14 cannot work for more than five hours on non-school days (including Saturdays).
2. Children age 15 or over cannot work for more than eight hours on non-school days (including Saturdays).
3. During holidays children aged 13 and 14 cannot work more than 25 hours.
4. During holidays children aged 15 or over cannot work more than 35 hours.
5. Children are required to have at least two weeks per year free from work during the school holidays.

Byelaw 4 - Intervals for meals and rest

Children are entitled to rest periods. The Act provides that children cannot work for more than four hours in any day without a rest break of one hour. This Byelaw deals with other aspects of intervals and rest.

Byelaws 5 – 8

These Byelaws regulate the types of occupation children under school leaving age may be employed and place conditions on their employment.

Byelaw 9 – Work Permits

This Byelaw sets out the requirements which must be met to obtain a Work Permit.

Byelaw 10 – Harvesting Work Licence

This Byelaw sets out specific provisions in relation to employment in harvesting. A Licence must be obtained.

Byelaw 11 - Street Trading

This is a new Byelaw. It specifies the days, hours and places where children may take part in street trading if they have obtained the appropriate licence. Byelaw 11.1 only allows street trading for children aged 14 and over and then only if employed and supervised by their parents. Children may only take part in street trading on Non-School Days as set down in Byelaw 11.5. Byelaw 11.4 prohibits children from taking part in street trading on any School Day. Byelaws 11.3 and 11.7 prohibit children from taking part in street trading on a Sunday. These restrictions are in line with existing legislation.

Penalties

If a person is employed in contravention of section 28 of the Act or of any of these Byelaws, the employer or any other person who is responsible for the act or default shall be liable to a fine of up to level 3 of the Standard Scale (currently £1,000).

A person under compulsory school age who engages in street trading in contravention of section 30 of the Act or of these Byelaws shall be liable to a fine not exceeding level 1 of the Standard Scale (currently £200).

**SCOTTISH BORDERS COUNCIL
BYELAWS RELATING TO THE EMPLOYMENT OF CHILDREN 2002**

GENERAL QUESTIONS

1. *What is a school day?*

A school day is when the school is open and a child must attend. (Byelaw 1.1(iii))

2. *What is a non-school day?*

Non-school day is a day when the school is closed. This does not include a Sunday. (Byelaw 1.1(iv))

3. *What do you find in the Byelaws?*

You will find numbered byelaws dealing with the following issues:

- 2 Minimum age
- 3 Employment on a school day
- 4 Intervals for meals and rest
- 5 Prohibited Occupations
- 6 Permitted employment of children aged 14 or over
- 7 Permitted employment of children aged 13
- 8 Additional conditions of work
- 9 Work Permits
- 10 Harvesting Work Licence
- 11 Street Trading

You also will find an explanatory note at the end of the actual byelaws. This is not part of the byelaws but provides explanation and additional information which is contained in Act and found in other places. It may be helpful for you to look at this section to get a fuller picture of the law on the employment of children.

4. *When do they come into force?*

On 20/12/2002.

5. *To whom do they apply?*

Children of school age (16th birthday) and employers who wish to employ children, but parent/guardians, the school and the local authority also have important parts to play.

6. *What happens if there is any breach of the Act or Byelaws?*

A fine can be imposed.

AGE

7. *How old must a child be to be employed?*

Aged 14, subject to one exception. (Byelaw 2.1)

8. *What is the exception?*

Children aged 13 can be employed in certain types of work. (Byelaw 2.2)

9. *What types of work are these?*

You will find the list of permitted employment in Byelaws 7.1 to 7.9.

WORK CONDITIONS

10. *What days of Monday through to Friday can a child work?*

A child can work any of these days but there are limits to the number of hours and when these hours can be worked in any day.

11. *What hours can a child work on a school day?*

A child can work up to 2 hours. In the morning a child cannot work before 7 a.m. and cannot work for more than one hour before school starts. (Byelaw 3.1). A child can work after school but not after 7 p.m.

12. *How many employers can a child work for?*

If a child works before school and after school, it must be for the same employer. (Byelaw 3.2)

13. *Can a child work on a Sunday?*

Yes, a child can work on a Sunday for 2 hours between 7 a.m. and 7 p.m.

14. *How many hours can a child work on non-school days including Saturdays and holidays?*

Children aged 14 or under cannot work for more than five hours on non-school days.

Children aged 15 or over cannot work for more than eight hours on non-school days.

During holidays children aged 14 or under cannot work more than 25 hours.

During holidays children aged 15 or over cannot work more than 35 hours.

15. *Can a child work all through the holidays?*

No. A child is required to have a minimum of 2 weeks from work during school holidays.

16. *Is a child entitled to a break during work?*

Yes, if a child has worked for 2½ hours he/she is entitled to a 15-minute rest period. (Byelaw 4.1)

If a child has worked for more than 4 hours he/she is entitled to a one-hour rest period.

17. *Are the rest periods included in the total of hours worked?*

Yes. (Byelaw 4.2)

18. *Are there any types of work a child cannot do by law?*

Yes. The types of work which a child cannot do are listed in Byelaws 5.1 to 5.19.

19. *Are there specific requirements for clothing?*

Yes, a child must have suitable clothes and footwear. (Byelaw 8.1) Parents and employers should discuss this matter.

WORK PERMITS

20. *Does a child require a Work Permit?*

Yes, a child requires a Work Permit (Byelaw 9.1), except for harvesting which require a Harvesting Work Licence.

21. *Who applies for the Work Permit?*

The employer applies for the Work Permit but the parent or guardian and the school the child attends must countersign it. (Byelaw 9.2)

22. *How does the employer apply for a Work Permit?*

Application forms will be available from schools, public libraries and Lifelong Learning, Scottish Borders Council Headquarters, Newtown St Boswells.

23. *Can the Education Authority request reports from the head teacher and/or report from the School Medical Officer or the child's GP?*

Yes. (Byelaw 9.3)

24. *Can a Work Permit be refused? Why?*

Yes, a Work Permit can be refused. It will depend on each child's individual circumstances. For example, it may be that the type of work or duties are unsuitable for that particular child or prohibited by law, or it is likely to be prejudicial to the health of the child or make the child unfit to obtain full benefit of education. (Byelaw 9.4)

25. *Can a Work Permit be withdrawn? Why?*

Yes, a Work Permit can be withdrawn if the employment is prejudicial to health or welfare of the child or it makes him unfit to obtain full benefit of education or the employment breaches the Byelaws or any other statutory provision or if it is not in the best interests of the child. (Byelaw 9.7)

26. *Who can appeal if a Work Permit is refused or withdrawn? To whom?*

The parent/guardian can appeal to the Director of the Education Authority if the Work Permit is refused or withdrawn. (Byelaw 9.9)

27. *Who can have a copy of the Work Permit?*

The parents/guardians shall be given a copy of the Work Permit. (Byelaw 9.4)

28. *Can a 12 year old “help out” his/her parents with light agricultural work on their farm under their supervisor?*

Yes, but he/she must not be employed by them. Since employment is prohibited for a child of that age, he/she does not need a Work Permit to “help out”.

HARVESTING

29. *Can a child be employed in harvesting?*

Yes, if a child is 14 years of age. If a child is aged 13, he/she can be employed in harvesting if there is parental supervision. (Byelaw 10.1)

30. *Does a child need a licence?*

Yes, a child needs a Harvesting Work Licence. (Byelaw 10.2)

Make sure that the employer holds an Employment of Children Licence as required by law. (Byelaw 10.9) If the employer does not hold such a Licence, then the child cannot work for that employer.

31. *Does a child also need a Work Permit?*

No, a child only needs a Harvesting Work Licence.

32. *How does a child apply for a Harvesting Work Licence?*

Application forms will be available from schools, public libraries and Lifelong Learning, Scottish Borders Council Headquarters, Newtown St Boswells. (Byelaw 10.3)

33. *Who applies for the Licence?*

A parent/guardian applies on behalf of the child and must sign the form.

34. *Can a Licence be refused? Why?*

Yes, a licence can be refused if it is likely to be prejudicial to the child’s health or makes him unfit to obtain full benefit of education. It will depend on each child’s individual circumstances. (Byelaw 10.5)

35. *Can a Licence be withdrawn?*

Yes, a Licence can be withdrawn if the employment is prejudicial to health or welfare of the child or it makes him unfit to obtain full benefit of education or the employment breaches the Byelaws or any other statutory provision or if it is not in the best interests of the child. (Byelaw 10.6)

36. *Who can appeal if Harvesting Work Licence is refused or withdrawn? To whom?*

The parent/guardian can appeal to the Director of the Education Authority if the Licence is refused or withdrawn. (Byelaw 10.7)

37. *Who can have a copy of the Licence?*

The parents/guardians shall be given a copy of the Licence. (Byelaw 9.4).

STREET TRADING

38. *Can a child work in street trading?*

No, unless a child is 14 and is employed by his own parents and has a street trader’s licence. (Byelaw 11.1)

39. *Can a street trader’s licence be refused?*

Yes, a licence can be refused. (Byelaw 11.2)

40. *On what days can a child do street trading?*

Only on non-school days. Not on a Sunday or any school day. (Byelaws 11.3 and 11.4)

41. *What hours can a child street trade on a non-school day?*

A child can only street trade between the hours of 7 a.m. and 7 p.m. and only for a maximum of 4 hours. (Byelaw 11.5)

42. *Is a child entitled to a break during work?*

Yes, if the child has worked for 2½ hours he is entitled to a 15-minute rest period. (Byelaw 11.5)

43. *Are the rest periods included in the total of hours worked?*

Yes.

44. *Can a child street trade anywhere?*

No. Only in public places or street defined in the Byelaws. (Byelaw 11.6 and see Byelaw 1.1(x) for definition of public place and (xi) for definition of street.

45. *What is street trading?*

Street trading is defined in Byelaw 1.1(xii) which give a list which is not exhaustive. If you are unclear please contact the Council to determine if the activity would be considered to be street trading.

46. *Can a Street Trader's Licence be suspended or revoked?*

Yes, for various reasons as stated in Byelaw 11.8.

47. *What if a child disobeyed the Act or Byelaws and engaged in street trading?*

The child could be fined.

Q & A FOR EMPLOYERS

48. *Can I employ children?*

Yes you can, but only if the children are aged 14 and above. There is provision to employ 13-year-old children for certain types of work.

49. *What are these types of work?*

They are listed in Byelaw 7.

50. *Are there any types of work for which I cannot employ children?*

Yes, these are set out in Byelaw 5.

51. *What hours can I employ a child to work on a school day?*

You can employ children for up to 2 hours on a school day. In the morning this cannot be before 7 a.m. and cannot be for more than one hour before school starts. (Byelaw 3.1). A child can work after school but this must be before 7 p.m.

52. *Can I employ a child to work on a Sunday?*

Yes, 2 hours between 7 a.m. and 7 p.m.

53. *How many hours can I employ a child to work on non-school days including holidays?*

Children aged 14 or under cannot work for more than five hours on non-school days.

Children age 15 or over cannot work for more than eight hours on non-school days.

During holidays children aged 14 or under cannot work more than 25 hours.

During holidays children aged 15 or over cannot work more than 35 hours.

54. *Can I employ a child to work all through the holidays?*

No. An employee is required to have a minimum of 2 weeks from work during school holidays.

55. *Is a child entitled to a break during work?*

Yes, if the child has worked for 2½ hours he is entitled to a 15-minute rest period. If the child has worked for more than 4 hours he is entitled to a one-hour rest period.

56. *Are the rest periods included in the total of hours worked?*

Yes.

57. *Are there specific requirements for clothing?*

Yes, a child must have suitable clothes and footwear. (Byelaw 8.1) Parents and employers should discuss this matter.

58. *Am I required to hold an Employment of Children Licence?*

Yes, but only for the purpose of employing children in harvesting. (Byelaw 10.9) It is not required in a situation where a Work Permit is required.

59. *Where can I get the application form for the Employment of Children Licence?*

The application form is available from public libraries and Lifelong Learning, Scottish Borders Council Headquarters, Newtown St Boswells. (Byelaw 10.10)

60. *Is there any limit on number of children I can employ?*

No.

61. *Where can I obtain applications for Work Permits?*

Application forms will be available from schools, public libraries and Lifelong Learning, Scottish Borders Council Headquarters, Newtown St Boswells.

62. *Do I have to obtain parental/guardian consent?*

Yes. (Byelaw 9.2)

63. *Do I need the school's consent?*

Yes. (Byelaw 9.2)

64. *Do I need to carry out a risk assessment?*

Yes. You are required to sign a statement confirming that an appropriate risk assessment has been carried out. (Byelaw 9.2)

65. *Can a Work Permit be refused?*

Yes. (Byelaw 9.4)

66. *Can a Work Permit be withdrawn?*

Yes. (Byelaw 9.8)

67. *Do I have a right of appeal?*

No, only the parents/guardians of the child have a right of appeal. (Byelaw 9.9)

68. *Am I required to apply for Work Permits for each child?*

Yes, for every child that you have working for you, you must have a separate Work Permit.

69. *Do I need to keep the Work Permit for each child?*

Yes, while any child is in your employment. This must be shown on demand to the police officer or authorised officer of the Education Authority. (Byelaw 9.6)

70. *What happens to the Work Permit after it expires, or is withdrawn or employment of the child is terminated?*

You are required to return the work Permit to the Director of Education, Lifelong Learning, Scottish Borders Council Headquarters, Newtown St Boswells. (Byelaw 9.8)

71. *Can I employ a child for harvesting purposes?*

Yes, as long as that child is either 14 years or over or is 13 and there is parental supervision. The child must also have a Harvesting Work Licence. (Byelaw 10.1)