

PEMBROKESHIRE COUNTY COUNCIL BYELAWS

ON THE EMPLOYMENT OF CHILDREN 20.....

Made on the xxth day of xxxx 20.....

Coming into force on the xxth day of xxxx 20.....

Pembrokeshire County Council, in exercise of the powers conferred on it by Section 18(2) of the Children and Young Persons Act 1933 as amended [‘the Act’] hereby makes the following Byelaws:

Citation and Commencement

1. These Byelaws may be cited as the Pembrokeshire County Council Byelaws on the Employment of Children 20... [‘these Byelaws’] and shall come into force on the xxth day of xxxx 20.....

Interpretation and Extent

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

“the Authority”	means Pembrokeshire County 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- <ol style="list-style-type: none">(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;
“parent”	includes any person who has for the time being parental responsibility for the 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;
“year”	except in expressions of age, means a period of 12 months beginning on 1 st 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;¹
 - (b) to sell or deliver alcohol;
 - (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, except under the supervision of an adult;
 - (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.

¹ 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

Permitted Employment of Children Aged 14 or 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 by their parent or guardian;
- (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, subject to the provisions of Byelaw 3(e);
- (h) in riding stables; and
- (i) domestic work in hotels and other establishments offering accommodation.

Prohibition of employment of children under the age of 13

6. Children under the age of 13 may not be in employment.

Employment before School

7. Subject to the other provisions of these Byelaws, children may be employed for up to 1 hour before the commencement of school hours on any day on which they are required to attend school.

Additional Condition(s)

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

Notification of Employment and Employment Permits and Child Identification Photo Card

9. Within 1 week of employing a child, the employer must send to the Authority written notification stating:
 - (a) his or 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 tasks 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;
 - (f) a statement to the effect that an appropriate risk assessment has been carried out by the employer; and
 - (g) 2 recent passport type photographs of the child signed on the back by both the child and his employer
10. Where, on receipt of the above notification, and the passport type photographs mentioned in 9 (g) above, 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 or her 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 for the child, which the employer must keep securely at the place of employment and produce for inspection when required to do so by an authorised officer of the Authority or a police officer; and it will issue to the child an identification photo card which will contain the child's name, photograph and date of issue.

11. Before issuing an employment permit the 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 tasks involved and the place of employment;
- (c) the child will not be permitted to work for more than 12 hours in any week in which he or she is required to attend school.

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

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

15. 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 the child's health, welfare or ability to take advantage of his or her education are suffering or likely to suffer as a result of the employment.

15. A child must produce his or her identification photo card for inspection when required to do so by an authorised officer of the Authority or by a police officer.

Revocation

16. The Byelaws with respect to the employment of children made by Pembrokeshire County Council on the 19th day of December 2007 confirmed by the National Assembly for Wales on the 4th day of June 2008, are hereby revoked.

THE COMMON SEAL of)
PEMBROKESHIRE COUNTY COUNCIL)
was affixed to these Byelaws)
on..... in the presence of:

Signed.....

These Byelaws are confirmed by
the National Assembly for Wales on the
..... and shall come into operation on
.....

Signed

DRAFT

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 3-5) and other conditions of their employment. By virtue of The Children (Protection at Work) (No 2) Regulations 2000, the employment permit shall stipulate that a child must not work for more than 12 hours in any week in which he is required to attend school (Byelaw 12). Employers are obliged to notify local authorities of their child employees (Byelaw 9). They provide for checks on a child's fitness for employment and for the issue of employment permits, setting out the occupation in which the child may be employed and the child's hours of work (Byelaws 9-12).

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 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.

Penalties

Section 21 of the Act includes provision for that:-

If a person is employed in contravention of Section 18 or 20 of the Act, or of the provisions of any byelaw 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.

A child who engages in street trading in contravention of section 20(1) of the Act shall be liable on summary conviction to a fine not exceeding level 1 on the Standard Scale.

Fixed Penalty Notices

Section 12-13 of the Local Government Byelaws (Wales) Act 2012 ['the 2012 Act'] include provision for that:-

- if an authorised officer of the Authority has reason to believe that a person has committed an offence against a byelaw made by the Authority, the officer may give a notice to the person offering

the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty;

-if an authorised officer of a community council has reason to believe that a person has committed an offence in its area against a byelaw made by the Authority, the officer may give that person a notice offering the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty;

-if such a notice is given, a fixed penalty of £75 is payable to the authority whose officer gave the notice, and no proceedings may be instituted for the offence before the end of the period of 14 days following the date of the notice, and the person may not be convicted of the offence if the person pays the fixed penalty before the end of that 14 day period; and

-a fixed penalty notice must give particulars of the circumstances alleged to constitute the offence as are necessary to explain why the offence occurred, outline the above-mentioned 14 day period during which proceedings will not be taken for the offence, the amount of fixed penalty as mentioned above, and the person to whom and the address at which the fixed penalty may be paid.

Power to require name and address in connection with fixed penalties

Section 14 of the 2012 Act includes provision for that:-

-if an authorised officer proposes to give a person such a notice under section 12 of the 2012 Act, and that person without reasonable excuse fails to give his or her name and address when required, or gives a false or inaccurate name or address in response to a requirement, that person commits an offence; and

-is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Summary of Permitted Working Hours

Employment may only take place from 7am to 7pm.

13 and 14 year olds may only work:-

- On school days- 1 hour before the start of school hours and 1 hour after the close of school hours, or 2 hours after the close of school hours
- On Saturdays and school holidays (on a day which is not a Sunday)- 5 hours daily
- On Sundays- 2 hours daily

- A maximum 12 hours per week during term-time
- A maximum 25 hours per week during school holidays

15 year olds upward may work:-

- On school days- 1 hour before the start of school hours and 1 hour after the close of school hours, or 2 hours after the close of school hours
- On Saturdays and school holidays (on a day which is not a Sunday)- 8 hours daily
- On Sundays- 2 hours daily
- A maximum 12 hours per week during term-time
- A maximum 35 hours per week during school holidays

No child shall be employed:-

- For more than 4 hours in any day without a rest break of 1 hour
- At any time in a year unless the child has had, or could still have, during school holidays, at least 2 consecutive weeks without employment.