
STATUTORY INSTRUMENTS

1998 No. 276

CHILDREN AND YOUNG PERSONS

The Children (Protection at Work) Regulations 1998

Made - - - - *12th February 1998*
Laid before Parliament *12th February 1998*
Coming into force - - *4th August 1998*

The Secretary of State for Health, as respects England and Wales, and the Secretary of State for Scotland, as respects Scotland, being Ministers designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to measures relating to the employment of children and young persons, in exercise of the powers conferred by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Children (Protection at Work) Regulations 1998 and shall come into force on 4th August 1998.

(2) In these Regulations—

- (a) “the 1933 Act” means the Children and Young Persons Act 1933⁽³⁾;
- (b) “the 1937 Act” means the Children and Young Persons (Scotland) Act 1937⁽⁴⁾; and
- (c) “the 1963 Act” means the Children and Young Persons Act 1963⁽⁵⁾.

Amendments to the 1933 Act

2.—(1) Section 18⁽⁶⁾ (restrictions on employment of children) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), for “thirteen years” substitute “fourteen years”;
- (b) after paragraph (a), insert the following new paragraph—
 - “(aa) to do any work other than light work; or”;

(1) See the European Communities (Designation) Order 1996 (S.I.1996/266), article 2.

(2) 1972 c. 68.

(3) 1933 c. 12.

(4) 1937 c. 37.

(5) 1963 c. 37.

(6) Section 18 was amended by the 1963 Act, sections 34 and 64(1) and Schedule 3, paragraph 4 and by the Children Act 1972, section 1(2). It was also amended by the Employment of Children Act 1973 but that Act has been brought into force.

- (c) paragraph (f) is omitted; and
- (d) at the end insert—
 - “(g) for more than eight hours or, if he is under the age of fifteen years, for more than five hours in any day—
 - (i) on which he is not required to attend school, and
 - (ii) which is not a Sunday; or
 - (h) for more than thirty-five hours or, if he is under the age of fifteen years, for more than twenty-five hours in any week in which he is not required to attend school; or
 - (i) for more than four hours in any day without a rest break of one hour; or
 - (j) at any time in a year unless at that time he has had, or could still have, during a period in the year in which he is not required to attend school, at least two consecutive weeks without employment.”.
- (3) In subsection (2), in paragraph (a)—
 - (a) in sub-paragraph (i), after “employment” insert “on an occasional basis” and for “thirteen years” substitute “fourteen years”; and
 - (b) after sub-paragraph (i), insert the following new sub-paragraph—
 - “(ia) the employment of children aged thirteen years (notwithstanding anything in paragraph (a) of the last foregoing subsection) in categories of light work specified in the byelaw.”.
- (4) After subsection (2), insert the following new subsection—
 - “(2A) In this section—
 - “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 or to their participation in work experience in accordance with section 560 of the Education Act 1996(7), or their capacity to benefit from the instruction received or, as the case may be, the experience gained;
 - “week” means any period of seven consecutive days; and
 - “year”, except in expressions of age, means a period of twelve months beginning with 1st January.”.
- (5) In subsection (3)—
 - (a) for “taking part in a performance” substitute “doing anything”, and
 - (b) in paragraph (b), for “take part in the performance” substitute “do it”.
- 3. In section 21(8) (penalties and legal proceedings in respect of general provisions as to employment) after subsection (2) insert the following new subsection—
 - “(2A) Where a person is charged under this section with contravening section 18(1)(j) of this Act the proviso in subsection (1) of this section shall not apply, but it shall be a defence for him to prove that he used all due diligence to secure that section 18(1)(j) should be complied with”.

(7) 1996 c. 56.

(8) Section 21 was amended by the Criminal Justice Act 1982, sections 38 and 46 and by the Employment Act 1989, section 10(2) and Schedule 3, Part III, paragraph 3.

4. In section 23(9) (performances endangering life or limb), for “section 37” substitute “section 37(2)”.
5. In section 25(10) (restrictions on children going abroad to perform for profit)—
 - (a) in subsection (1) after “abroad” insert “(a)”;
 - (b) in that subsection, after “for profit,” insert “or”
 - “(b) for the purpose of taking part in a sport, or working as a model, where payment in respect of his doing so, other than for defraying expenses, is made to him or to another person,”;
 - (c) in subsection (2), for the words from “for the purpose” to “profit,” substitute “for any purpose referred to in subsection (1) of this section,”;
 - (d) in subsections (2) and (4) to (8), for “police magistrate”, wherever the words occur, substitute “justice of the peace”;
 - (e) in subsection (3), for “the police magistrate” in the first place where the words occur substitute “a justice of the peace” and in the subsequent places where they occur substitute “the justice of the peace”;
 - (f) in subsection (7), for “the magistrate” substitute “the justice of the peace”; and
 - (g) subsection (9) is repealed.
6. In section 26(11) (punishment of contraventions), in subsection (2)—
 - (a) after “abroad and that” insert “(a)”;
 - (b) after “profit,” insert “or”
 - “(b) that child has while abroad taken part in a sport, or worked as a model, and payment in respect of his doing so, other than for defraying expenses, was made to him or to another person,”.
7. In section 28(12) (powers of entry)—
 - (a) in subsection (1), for “or being trained,” substitute “being trained, taking part in a sport, or working as a model,”;
 - (b) in subsection (2)(a), before “section 37” insert “subsection (2) of”; and
 - (c) in subsection (2)(b), for “take part in a performance” substitute “do anything”.

Amendments to the 1937 Act

- 8.—(1) Section 28(13) (restrictions on employment of children) is amended as follows.
- (2) In subsection (1)—
 - (a) in paragraph (a), for “thirteen years” substitute “fourteen years”;
 - (b) after paragraph (a) insert the following new paragraph—
 - “(aa) to do any work other than light work; or”, and

(9) Section 23 was amended by the 1963 Act, section 64(1) and Schedule 3, paragraph 5, the Criminal Justice Act 1982, sections 38 and 46 and by the Employment Act 1989, section 10(2) and Schedule 3, Part III, paragraph 4.

(10) Section 25(1) was amended by the 1963 Act, section 64, paragraph 7 of Schedule 3 and Schedule 5; the Employment Act 1989, section 10 and paragraph 10 of Schedule 3 and by the Children Act 1989, section 108(5) and paragraph 3 of Schedule 13, Section 25(2) was amended by the Employment Act 1989, section 10 and paragraph 6 of Schedule 3.

(11) Section 26 was amended by the 1963 Act, section 64(1) and (3), paragraph 8 and Schedule 5, the Criminal Justice Act 1982, sections 38 and 46 and by The Employment Act 1989, section 10(2) Schedule 3, Part III, para 7.

(12) Section 28 was amended by the 1963 Act, sections 43, 64(1) and Schedule 3, paragraph 9 and by the Broadcasting Act 1990, section 203(1), Schedule 20, paragraph 3(1) and Schedule 21.

(13) Section 28 was amended by section 34 of the 1963 Act and section 1(2) of the Children Act 1972 (c. 44) and S.I. 1992/2793. It was also amended by the Employment of Children Act 1973 (c. 24), section 3(4) but that Act has not been brought into force.

- (c) paragraph (f) is omitted; and
- (d) at the end insert—
 - “(g) for more than eight hours or, if he is under the age of fifteen years, for more than five hours in any day—
 - (i) on which he is not required to attend school, and
 - (ii) which is not a Sunday; or
 - (h) for more than thirty-five hours or, if he is under the age of fifteen years, for more than twenty-five hours in any week in which he is not required to attend school; or
 - (i) for more than four hours in any day without a rest break of one hour; or
 - (j) at any time in a year unless at that time he has had, or could still have, during a period in the year in which he is not required to attend school, at least two consecutive weeks without employment.”.
- (3) In subsection (2), in paragraph (a)—
 - (a) in sub-paragraph (i) after “employment” insert “on an occasional basis” and for “thirteen years” substitute “fourteen years”; and
 - (b) after sub-paragraph (i) insert the following new sub-paragraph—
 - “(ia) the employment of children aged thirteen years (notwithstanding anything in paragraph (a) of the last foregoing subsection) in categories of light work specified in the byelaw.”.
- (4) After subsection (2) insert the following new subsection—
 - “(2A) In this section—
 - “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 or to their participation in work experience in accordance with section 123 of the Education (Scotland) Act 1980(14), or their capacity to benefit from the instruction received or, as the case may be, the experience gained;
 - “week” means any period of seven consecutive days; and
 - “year”, except in expressions of age, means a period of twelve months beginning with 1st January.”.
- (5) In subsection (3)—
 - (a) for “taking part in a performance” substitute “doing anything”, and
 - (b) in paragraph (b), for “take part in the performance” substitute “do it”.
- 9. In section 31(15) (penalties and legal proceedings in respect of general provisions as to employment), after subsection (2) insert the following new subsection—
 - “(2A) Where a person is charged under this section with contravening section 28(1)(j) of this Act the proviso in subsection (1) of this section shall not apply, but it shall be a defence for him to prove that he used all due diligence to secure that section 28(1)(j) should be complied with.”.

(14) Section 123 was amended by the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 10, paragraph 8(21).

(15) Section 31 was amended by section 36 of the 1963 Act and by the Employment Act 1989, Schedule 3, paragraph 10.

10. In section 33(16) (performances endangering life or limb), for “section 37” substitute “section 37(2)”.

11. In section 36(17) (powers of entry)—

- (a) in subsection (1), for “or being trained,” substitute “being trained, taking part in a sport, or working as a model,”;
- (b) in subsection (2)(a), before “section 37” insert “subsection (2) of”; and
- (c) in subsection (2)(b), for “take part in a performance” substitute “do anything”.

Amendments to the 1963 Act

12.—(1) Section 37 (restrictions on children taking part in performances, etc) is amended as follows.

(2) In subsection (1), for the words from “Subject” to “applies” substitute—

“(1) Subject to the provisions of this section, a child shall not—

- (a) take part in a performance to which subsection (2) of this section applies, or
- (b) otherwise take part in a sport, or work as a model, where payment in respect of his doing so, other than for defraying expenses, is made to him or to another person.”.

(3) In subsection (2), for “section”, in the first place where it occurs, substitute “subsection”.

(4) In subsection (3)—

- (a) after “performance to which” insert “subsection (2) of”;
- (b) after “applies if” insert “no payment in respect of his taking part in the performance, other than for defraying expenses, is made to him or to another person, and—”;
- (c) in paragraph (a), after “performances to which” insert “subsection (2) of”; and
- (d) in paragraph (b), the words from “and no payment” to “expenses” are omitted.

(5) In subsection (4)—

- (a) for “take part in a performance or series of performances” substitute “do anything”; and
- (b) for “do so” substitute “do it”.

(6) In subsection (6), for “taking part in a performance” substitute “any activity”.

13. In section 38(1) (restrictions on licences for performances by children under 13), after “granted” insert “in relation to a performance to which subsection (2) of that section applies”.

14.—(1) Section 39 (supplementary provisions as to licences) is amended as follows.

(2) In subsections (1) and (2), for “the performance or one of the performances” substitute “any activity”.

(3) In subsection (3)—

- (a) for “take part in a performance” substitute “do something”, and
- (b) for “to a performance” substitute “to an activity”.

(4) In subsection (5), for “the performance or last performance” substitute “the occasion or last occasion”.

(16) Section 33 was amended by the 1963 Act, Schedule 3, paragraph 30, the Criminal Justice Act 1967, section 92 and Schedule 3 and by the Employment Act 1989, Schedule 3, paragraph 11.

(17) Section 36 was amended by the 1963 Act, section 43 and Schedule 3, paragraph 31, the Cable and Broadcasting Act 1984, Schedule 5, paragraph 5 and the Broadcasting Act 1990, Schedule 20, paragraph 4 and Schedule 21.

15. In section 40 (offences), in subsection (1)(a), for “take part in any performance” substitute “do anything”.

16.—(1) Section 42 (licences for children and young persons performing abroad) is amended as follows.

(2) In subsection (1), for “the purpose of performing for profit” substitute “certain purposes”.

(3) In subsection (2), after “granted” insert “in relation to a purpose referred to in subsection (1) (a) of that section”.

Consequential amendments to other statutes

17.—(1) In the Children Act 1972(**18**), section 1(1) (which is spent in consequence of the amendments to section 18 of the 1933 Act in regulation 2(2)(a) and the corresponding amendment for Scotland in regulation 8) is omitted.

(2) In the Justices of the Peace Act 1997(**19**) in section 18(4), paragraph (a) is omitted.

12th February 1998

Frank Dobson
Secretary of State,
Department of Health

12th February 1998

Donald Dewar
Secretary of State, Scottish Office

(18) 1972 c. 44.
(19) 1997 c. 25.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Children and Young Persons Acts 1933 and 1963 and the Children and Young Persons (Scotland) Act 1937 in order to implement in relation to children the provisions of the 1994 EC Directive on the Protection of Young People at Work (94/33/EC).

Regulations 2 to 7 amend the 1933 Act in a number of ways. Regulation 2 raises from thirteen years to fourteen years the age at which a child may be employed in any work, other than as an employee of his parent or guardian in light agricultural or horticultural work on an occasional basis. It replaces the prohibition against work likely to injure a child with a prohibition against anything other than light work, an expression defined by reference to the EC Directive. Light work is work which does not jeopardise a child's safety, health, development, attendance at school or participation in work experience. Regulation 2 also permits the employment of children over the age of 13 years in categories of light work specified in local authority byelaws and brings into line with the requirements of the Directive the hours which a child over the age of fourteen may work and the rest periods which are required. In particular, provision is made to ensure that a child has at least one two week period in his school holidays free from any employment.

Regulation 5 amends the 1933 Act to extend the prohibition against a child going abroad for the purposes of performing for profit without a local authority licence, to cover also going abroad for the purpose of taking part in a sport or working as a model in circumstances where payment is made.

Regulations 3, 4 and 6 and 7 contain amendments consequential upon the amendments in regulations 2 and 5.

Regulations 8 to 11 make parallel provision for Scotland in so far as the amendments made to the 1933 Act do not also extend there.

Regulation 12 amends section 37 of the 1963 Act which contains restrictions on children taking part in public performances. The present requirements for a local authority licence are extended to require a licence to be obtained before a child may take part in a sport or work as a model in circumstances where payment is made either to the child or to someone else. Regulations 13 to 17 make consequential amendments. The provisions concerning licensing are amended so that a licence may be obtained from any justice of the peace.