



Children and Young Persons (Scotland) Act 1937

1937 CHAPTER 37

PART III

EMPLOYMENT

General Provisions as to Employment

28 Restrictions on employment of children

- (1) Subject to the provisions of this section and of any byelaws made thereunder, no child shall be employed—
- (a) so long as he is under the age of twelve years; or
 - (b) before the close of school hours on any day on which he is under obligation to attend school; or
 - (c) before six o'clock in the morning on any day or after seven o'clock in the evening on any day during the period from the first day of October to the thirty-first day of March, or after eight o'clock in the evening on any day during the period from the first day of April to the thirtieth day of September; or
 - (d) for more than two hours on any day on which he is under obligation to attend school; or
 - (e) for more than two hours on any Sunday; or
 - (f) to lift, carry or move anything so heavy as to be likely to cause injury to him.
- (2) An education authority may make byelaws with respect to the employment of children, and any such byelaws may distinguish between children of different ages and sexes and between different localities, trades, occupations and circumstances, and may contain provisions—
- (a) authorising—

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- (i) the employment of children under the age of twelve years (notwithstanding anything in paragraph (a) of the last foregoing subsection) by their parents or guardians in light agricultural or horticultural work;
- (ii) the employment of children (notwithstanding anything in paragraph (b) of the last foregoing subsection) for not more than one hour before the commencement of school hours on any day on which they are under obligation to attend school;
- (b) prohibiting absolutely the employment of children in any specified occupation;
- (c) prescribing—
 - (i) the age below which children are not to be employed;
 - (ii) the number of hours in each day, or in each week, for which, and the times of day at which, they may be employed;
 - (iii) the intervals to be allowed to them for meals and rest;
 - (iv) the holidays or half-holidays to be allowed to them;
 - (v) any other conditions to be observed in relation to their employment;
 so, however, that no such byelaws shall modify the restrictions contained in the last foregoing subsection save in so far as is expressly permitted by paragraph (a) of this subsection, and any restriction contained in any such byelaws shall have effect in addition to the said restrictions.
- (3) Nothing in any byelaw made under this section shall prevent a child from taking part in an entertainment under and in accordance with the provisions of a licence granted and in force under the provisions of this Part of this Act.

29 Power of education authority to make byelaws with respect to employment of persons under eighteen other than children

- (1) Subject to the provisions of this section, an education authority may make byelaws with respect to the employment of persons under the age of eighteen years other than children, and any such byelaws may distinguish between persons of different ages and sexes, and between different localities, trades, occupations and circumstances, and may contain provisions prescribing—
 - (a) the number of hours in each day or in each week for which, and the time of day at which, they may be employed;
 - (b) the intervals to be allowed to them for meals and rest;
 - (c) the holidays or half-holidays to be allowed to them;
 - (d) any other conditions to be observed in relation to their employment.
- (2) Nothing in this section shall empower an education authority to make byelaws with respect to—
 - (a) employment in or about the delivery, collection, or transport of goods, except in the capacity of van boy, errand boy, or messenger;
 - (b) employment in or in connection with factories, workshops, mines, quarries, shops, or offices, except in the capacity of van boy, errand boy, or messenger;
 - (c) employment in the building or engineering trades, except in the capacity of van boy, errand boy, or messenger;
 - (d) employment in agriculture;
 - (e) employment in domestic service, except as non resident daily servant;

- (f) employment in any ship or' boat registered in the United Kingdom as a British ship or in any British fishing boat entered in the fishing boat register.
- (3) This section shall not come into operation until such date as may be appointed by an order of the Secretary of State, and the Secretary of State shall not make such an order until a draft thereof has been laid before both Houses of Parliament and has been approved by resolutions passed in the same session of Parliament by both Houses.

30 Street trading

- (1) No person under the age of seventeen years shall engage or be employed in street trading :

Provided that byelaws made under this section may permit young persons who have not attained the age of seventeen years to be employed by their parents in street trading.

- (2) An education authority may make byelaws regulating or prohibiting street trading by persons under the age of eighteen years, and byelaws so made may distinguish between persons of different ages and sexes and between different localities, and may contain provisions—
 - (a) forbidding any such person to engage or be employed in street trading unless he holds a licence granted by the authority, and regulating the conditions on which such licences may be granted, suspended, and revoked;
 - (b) determining the days and hours during which, and the places at which, such persons may engage or be employed in street trading;
 - (c) requiring such persons so engaged or employed to wear badges;
 - (d) regulating in any other respect the conduct of such persons while so engaged or employed.

31 Penalties and legal proceedings in respect of general provisions as to employment

- (1) If a person is employed in contravention of any of the foregoing provisions of this Part of this Act, or of the provisions of any byelaw made thereunder, the employer and any person (other than the person employed) to whose act or default the contravention is attributable shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five pounds or, in the case of a second or subsequent offence, not exceeding twenty pounds:

Provided that, if proceedings are brought against the employer, the employer, upon complaint duly laid by him and on giving to the prosecutor not less than three days' notice of his intention, shall be entitled to have any person (other than the person employed) to whose act or default he alleges that the contravention was due, brought before the court as a party to the proceedings, and if, after the contravention has been proved, the employer proves to the satisfaction of the court that the contravention was due to the act or default of the said other person, that person may be convicted of the offence; and if the employer further proves to the satisfaction of the court that he has used all due diligence to secure that the provisions in question should be complied with, he shall be acquitted of the offence.

- (2) Where an employer seeks to avail himself of the proviso to the last foregoing subsection—

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- (a) the prosecutor shall have the right to cross examine him, if he gives evidence, and any "witness called by him in support of his charge against the other person, and to call rebutting evidence; and
 - (b) the court may make such order as it thinks fit for the payment of expenses by any party to the proceedings to any other party thereto.
- (3) A person under the age of eighteen years, who engages in street trading in contravention of the provisions of the last foregoing section, or of any byelaw made thereunder, shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding twenty shillings, or in the case of a second or subsequent offence, not exceeding forty shillings.