

SUMMARY OF THE LEGISLATION COVERING THE EMPLOYMENT OF CHILDREN

THIS GUIDANCE IS INTENDED TO SET OUT THE KEY PROVISIONS OF THE LAW, WHICH APPLY TO THE EMPLOYMENT OF CHILDREN UNDER THE SCHOOL LEAVING AGE.

This guidance does not cover the rules that apply where a child is engaged in a performance.

The Children & Young Persons Act 1933 states that a person who assists in trade or occupation carried on for profit is considered as employed. This applies whether or not they receive payment and even when they are working for a family business.

Regulations regarding child employment apply to all children of compulsory school age, whether they attend school or are home educated. Children may not work until they reach the age of 13 years and even then, they may not work during school hours. This applies to all paid and unpaid work and this includes working in a family business.

How old does a child need to be before they can be legally employed?

1. UK legislation dictates that children under the age of 13 years may not be employed in any capacity by any person/s (this also includes parents/guardians).
2. Once a child reaches 13 years of age up until the end of their compulsory education (the end of their final GCSE year), they are allowed to work part-time – but within certain constraints. Once a child is over compulsory school age registration for work and obtaining an employment permit under this particular legislation no longer applies, even if the child returns to school after this date – for A levels, GNVQ etc.
3. Since September 1997 (Dept. Education & Skills) there has only been one school local education authority date, which is the last Friday in June each year. This applies to every child in their final GCSE year, even if they have reached 16 and/or have a National Insurance Number or even if their 16th birthday is not until the July or August of that school year. **This also applies to children who are home educated.**



What type of work can a child legally do?

Light work in any of the following categories:

- Agricultural or horticultural work
- Delivery of newspapers, journals and other printed material
- Shop work, including shelf stacking
- Hairdressing salons (Employers should note the Health & Safety Executive Guidance)
- 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

There is not a list of permitted employment allowable for 14, 15 & 16 year olds but there is a list of prohibited employment for all age groups.

What kind of work is prohibited or restricted?

Health & Safety

A child under 18 may not be employed for work:

- which is beyond the child's physical or psychological capacity
- involving harmful exposure to radiation
- involving a risk which cannot be recognised or avoided by the young person because of their lack of attention to safety or lack of experience or training, such as the use of sharp knives or slicers
- in which there is a risk to health from extreme cold or heat, noise or vibration.

Industrial Undertakings

As well as the rule restricting children to light work; the employment of children under the school leaving age in industrial undertakings is forbidden. "Industrial undertakings" includes:

- mines and quarries
- any manufacturing
- construction or repair of buildings, roads, etc.
- transport of passengers or goods, including handling goods in a warehouse

Gambling

The employment of children under 16 in almost all forms of gambling is forbidden.

Employment on Boats

A child under the school leaving age cannot be employed on any United Kingdom registered ship, including those operating on inland waters. In addition, children under 16 (including those over school leaving age) are prohibited from being employed on any UK registered sea-going ship. All children working on boats must be given appropriate health, safety and welfare protection including relevant risk assessments.

Additional Prohibitions

No child of any age may be employed:

- in a cinema, theatre, discotheque, dance hall or night club, except in connection with a performance given entirely by children*
- to sell or deliver alcohol
- to deliver milk
- in the collection or delivery of fuel oils
- in a commercial kitchen. This would not prevent:
 - serving at the counter of a fish and chip shop, provided this does not involve getting anything out of a deep fryer or working in an area where fish or chips are prepared
 - washing up in an area separate from where food is prepared
 - making sandwiches at the counter of a sandwich bar (providing this does not involve the use of sharp knives or slicers)
 - collecting meals from a kitchen or returning empty plates to a kitchen

- to collect or sort refuse
- in any work which is more than three metres above ground level or, in the case of internal work, more than three metres above floor level
- in employment involving harmful exposure to physical, biological or chemical agents
- to collect money, sell or canvass door to door. There is also a prohibition in the House-to-House Collection Regulations 1947 on children under 16 making house to house collections for charities
- in work involving exposure to adult material or in situations which are for this reason otherwise unsuitable for children
- in telephone sales
- 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. This would involve slicing meat, but not simply weighing meat in a butcher's shop or putting it into a packet
- as an attendance 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/skill or similar devices
- in any residential care home or nursing home
- street trading. This does not apply to open air markets or in any other place where it is customary for retail trade or business to be carried on.

Additional Health & Safety Requirements – Risk Assessment

Under health & safety law a risk assessment should be completed for each working child. Employers are required to:

- assess the risks to child in the course of their employment before they start work
- ensure that the risk assessment takes into account the inexperience, lack of awareness of risks and immaturity of the child
- introduce control measures to eliminate or minimise the risks, so far as is reasonably practicable.

A Risk Assessment must be specific to the work the individual is undertaking, but general points to consider when risk assessing for a young person (anyone under the age of 18) should include:

- ensuring an appropriate induction and level of supervision is provided
- site familiarisation
- provision of any protective equipment needed
- ensuring an adequate level of training is provided whilst verifying that the child has understood the instructions/training given to them
- ensuring any tasks are not beyond their physical/psychological capabilities
- adequate rest breaks are provided

Before employing a child under the school leaving age, the employer must let a parent/guardian of the child know the key findings of the risk assessment and the control measures introduced.

An employer who does not comply with these requirements commits an offence.

Further information can be obtained from the Health and Safety Executive

<https://www.hse.gov.uk/young-workers/employer/index.htm>

Hours of Employment

Children may not be employed:

- for more than one hour before the commencement of school hours on any day on which they are required to attend school
- before 7.00am in the morning or after 7.00pm on any day
- for more than two hours on any day on which they are required to be in school
- for more than two hours on any Sunday
- for more than eight hours (or if under 15 for more than five hours) in any day on which he/she is not required to attend school (Monday-Saturday)
- for more than thirty-five hours (or if under the age of 15 years for more than twenty-five hours) in any week in which the child is not required to attend school
- for more than four hours in any day without a rest break of one hour

Each child shall have two weeks break from work in any twelve months of continuous employment.

No child may work on any day when they are absent from school due to ill health, exclusion or study leave.

Permitted Hours of Work – daily and weekly limits:

Age	Daily Limit			Weekly Limit	
	School Day	Non-school day (Mon-Sat)	Any Sunday	During School Term	During School Holidays
Under 15	2 hours	5 hours	2 hours	12 hours	25 hours
15 and over	2 hours	8 hours	2 hours	12 hours	35 hours

Work Permits

Within one week of employing a child, the employer is required to submit an employment permit application form (“Notification of Child Employment”) in order to legally register the child’s employment with the local authority in whose area the employment takes place. Note: permission notes from school or parent are not acceptable forms of registration. Registration must take place through a local authority. These forms are available from the department responsible for child employment at the local authority and need to be completed with details of:

- employer’s name and address
- name, address and date of birth of the child
- 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 task involved and the place or employment
- a statement of the child’s fitness to work and of approval for the child to be employed, completed by the child’s parent/guardian
- details of the school at which the child is a registered pupil
- a statement to the effect that an appropriate risk assessment has been carried out by the employer

The child may commence the employment without a permit during the period before the permit is issued, provided that the necessary details have been sent to the local authority within a week from the employment start date.

If these rules are broken it is likely that the employer's liability insurance of the person employing the child will no longer be effective, so that if there was an accident involving the child the employer would be uninsured and would commit an offence.

Once an application has been submitted and the local authority is satisfied that:

- the proposed employment is lawful
- the child's health, welfare or ability to take full advantage of his/her education would not be jeopardised
- the child is fit to undertake the work for which he/she is to be employed (a child may be required to have a medical examination, although this is rarely necessary)

an employment permit will be issued, renewable annually. The child may be employed only in accordance with the details shown on the employment permit. A copy of the permit will be given to the local authority in whose area the child goes to school or lives (if that authority is not the same as that of the employer). The child's school will be supplied with a copy of the work permit and will be asked to contact the issuing authority in the event that the employment has a negative effect on the child's attendance or punctuality.

The local authority may, at any time, revoke a child's employment permit if it has reasonable grounds to believe:

- the child is being unlawfully employed
- that his/her health, welfare or ability to take advantage or his/her education are suffering or likely to suffer as a result of the employment

Work Experience

A work permit is not needed for work experience organised through a school.

Offences

If a child is employed in contravention of any of the rules set out above, the employer commits an offence and may be prosecuted. The case would be heard in a Magistrate's Court and the maximum fine is currently £1,000.

In addition, any person (other than the child) whose act or default contributed to the contravention also commits an offence. In some cases, the penalties may be higher.

The maximum penalty for employing a child in any of the types of work described under "Health and Safety" on page 2 is currently £20,000 if the case is heard in a Magistrate's Court or if heard in a Crown Court an unlimited fine.

If a child engages in street trading as detailed on page 3, the child commits an offence as well as the employer. If the child is convicted, the maximum fine that can be imposed on the child is currently £200, which would normally have to be paid by the child's parent.

Safeguarding Children

Under the Safeguarding Vulnerable Groups Act 2006 ("SVGA 2006") a criminal offence is committed if a barred person seeks to engage, offers to engage or does engage in regulated activity from which he/she is barred.

If a barred person engages in a regulated activity from which he/she is barred, the person who permitted him/her to engage in that activity (knowing or having reason to believe that the person is barred from that activity) has also committed a criminal offence.

In addition the SVGA 2006 creates a number of other offences relating to the duties created by this legislation.

What is meant by "a barred person"?

Under the Safeguarding Vulnerable Groups Act 2006 a person is barred from engaging in regulated activity with children if he/she is included in the children's barred list, which is maintained by the Disclosure and Barring Service.

Disclosure and Barring Service

Currently persons who employ or propose to employ a person in a "regulated position" are eligible to obtain a Disclosure and Barring Service Disclosure

What is "regulated activity"?

Regulated Activity Relating to Children

The new definition of regulated activity relating to children comprises only:

1. Unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/guidance on well-being, or drive a vehicle only for children;
2. Work for a limited range of establishments ('specified places'), with opportunity for contact: for example, schools, children's homes, childcare premises. Not work by supervised volunteers;

Work under 1 or 2 above is regulated activity only if done regularly. (Central Government are providing statutory guidance about supervision of activity which would be regulated activity if unsupervised).

3. Relevant personal care, for example washing or dressing or health care by or supervised by a professional;
4. Registered childminding and foster carers.

The entire above are regulated activities for children under 16 years of age, even if carried out in the course of the child's employment.

In specific circumstances defined by SVCA 2006, the activities listed above are not regulated activities for children over the age of 16 years if the activities arise in the course of the child's employment.

Employment includes any form of work carried out under the supervision or control of another person, whether or not the child receives payment.

The employer of a child under the age of 16 years, engaging in any of the regulated activities listed above with the child will be committing a criminal offence if he/she is barred from that regulated activity.

Similarly, another employee engaging in any of the listed regulated activities with the child will be committing a criminal offence if he/she is barred from that regulated activity. In addition, in those circumstances the employer will be committing a criminal offence if he/she permits that employee to engage in that activity knowing or having reason to believe that the employee is barred from that activity

<https://www.gov.uk/government/organisations/disclosure-and-barring-service>

For more information or guidance on the employment of children please contact:

Attendance & Placement Service

3rd Floor Quadrant East

Cobalt Business Park

Newcastle upon Tyne

NE27 0BY

Tel: 0191 6438392

helen.jordan@northtyneside.gov.uk

This guidance combines information from North Tyneside Council Byelaws and extracts from the DfE (Department for Education) *Guidance on the Employment of Children*

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