



Statutory Document No. 355/05

THE EDUCATION ACT 2001

THE EMPLOYMENT OF CHILDREN REGULATIONS 2005

Approved by Tynwald

14th July 2005

Coming into operation

1st September 2005

In exercise of the powers conferred on the Department of Education by section 54 of the Education Act 2001¹, and of all other enabling powers, the following Regulations are hereby made:—

1. Citation, commencement and interpretation

(1) These Regulations may be cited as the Employment of Children Regulations 2005 and, subject to section 58(1) of the Education Act 2001, shall come into operation on the 1st September 2005.

(2) In these Regulations —

"child" means any person under the age of 18 years;

"child of school age" means any child below the upper limit of compulsory school age;

"the Department" means the Department of Education;

"light work" means work which does not involve —

- (a) standing for any considerable time,
- (b) walking any considerable distance,
- (c) the operation of heavy machinery,
- (d) moving, lifting or carrying heavy weights, or
- (e) any other heavy labour of any description;

"school day", in relation to a child, means a day on which he is required to attend the school at which he is a registered pupil;

"week" means any period of 7 consecutive days;

"year", except in expressions of age, means a period of 12 months beginning on the 1st January.

¹ 2003 c.33
Price £1.00

(3) A chorister taking part in a religious service or in a choir practice for a religious service shall not, whether he receives any reward or not, be treated as employed for the purpose of these Regulations.

2. Restrictions on employment

(1) No child may be employed in any work if he is under the age of 13 years.

(2) No child under the age of 15 years may be employed in work other than light work.

(3) No child may be employed in any of the following occupations —

- (a) street trading;
- (b) selling or delivering alcoholic liquor (within the meaning of the Licensing Act 1995²);
- (c) collecting or sorting controlled waste (within the meaning of Part IV of the Public Health Act 1990³);
- (d) any work involving indecent activities or exposure to indecent material or activities;
- (e) work in a betting shop;
- (f) work in a slaughterhouse;
- (g) work in premises used for the killing of livestock, butchery or the preparation of carcasses or meat for sale (other than a part of the premises solely used as a retail shop);
- (h) work in a casino, discotheque, dance hall or night club; or
- (i) any other work which is likely to jeopardise his moral welfare.

(4) No child of school age may be employed in work which is —

- (a) likely to be harmful to his health or development, or
- (b) such as to prejudice his attendance at school, his participation in work experience as part of his education or his capacity to benefit from the instruction received or experience gained, as the case may be.

(5) Nothing in paragraph (1), (2) or (4) prevents —

- (a) a child taking part in a performance in accordance with a licence granted under the Performances by Children Regulations 2004⁴, or
- (b) a child aged 14 years or over being employed, in pursuance of arrangements made by the head teacher or proprietor of the school at

² 1995 c.8

³ 1990 c.10

⁴ SD 439/04

which he is a registered pupil and approved by the Department, with a view to providing him with work experience as part of his education.

3. Hours of employment

(1) No child of school age may in any week be employed in any work for more than —

- (a) 28 hours, if he is under the age of 15 years, or
- (b) 35 hours, if he is aged 15 years or over.

(2) No child of school age may be employed in any work on a school day —

- (a) before 7.00 am or after 9.00 pm, or
- (b) for more than one hour before the commencement of school.

(3) No child of school age may be employed in any work —

- (a) on a school day which is followed by a day which is a school day, for more than 2 hours in all;
- (b) on a school day which is followed by a day which is not a school day, for more than 4 hours in all.

(4) No child of school age may be employed in any work on a day which is not a school day —

- (a) before 7.00 am or after 10.00 pm, or
- (b) for more than 7 hours in all.

(5) No child of school age may be employed in any work on more than 6 days in any week.

4. Rests and breaks

(1) No child of school age may be employed in any work —

- (a) for a continuous period of more than 2 hours in any day without a rest period of at least 15 minutes; or
- (b) for a continuous period of more than 4 hours in any day (counting any rest period of less than one hour as part of that period) without a rest period of at least one hour.

(2) No child of school age may be employed at any time in a year unless at that time he has had or could still have, during that year, at least 2 consecutive weeks without being either employed or required to attend school.

5. Registers of employment

(1) Every employer shall keep, and make available for inspection by an authorised officer of the Department, at the place where or in connection with which a child of school age is or has in the previous 6 months been employed, a register containing the following particulars in respect of each such child employed by him —

- (a) the child's full name;
- (b) his date of birth;
- (c) his address;
- (d) the nature of the work undertaken by him;
- (e) the date on which his employment commenced;
- (f) the days and number of hours for which he is normally employed;
- (g) the days and number of hours for which he was actually employed in every week ending on a Saturday in the previous 6 months;
- (h) his hourly rate of pay; and
- (i) the date on which his employment ceased (if known).

(2) This regulation does not apply to any employment referred to in regulation 2(5)(a) or (b).

6. Powers of entry etc.

An authorised officer of the Department, or any constable, may enter and inspect any premises where he has reasonable cause to believe that a child is being employed, and make enquiries there with respect to the employment.

7. Offences

(1) Where a child is employed in contravention of any provision of regulations 2, 3 and 4 —

- (a) the employer, and
- (b) any parent of the child,

is guilty of an offence.

(2) An employer who fails to comply with the duty imposed by regulation 5 is guilty of an offence.

(3) A person who obstructs an authorised officer or constable exercising a power conferred by regulation 6 is guilty of an offence.

(4) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding £5,000.

(5) In any proceedings for an offence under this regulation, it shall be a defence for the accused to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

8. Repeals and transitional provision

(1) The enactments specified in the Schedule are repealed to the extent specified in column 3 of the Schedule.

(2) Where, immediately before the commencement of these Regulations, a child is employed in circumstances in which the employment —

- (a) does not contravene any of the enactments referred to in paragraph (1), but
- (b) apart from this paragraph, would be prohibited by any provision of regulation 2,

that provision shall not apply to the employment in relation to that child.

Regulation 8(1).

SCHEDULE
ENACTMENTS REPEALED

<i>Reference</i>	<i>Short title</i>	<i>Extent of repeal</i>
XX p.88	The Children and Young Persons Act 1966.	Sections 15 to 17. Sections 22 to 25.
XXI p.44	The Children and Young Persons Act 1969.	Sections 27 and 28. In Schedule 2, paragraphs 4 to 8.
1974 c.28	The Education (Work Experience) Act 1974.	The whole Act.
1980 c.6	The Children and Young Persons (Restriction on Employment) (Modification) Act 1980.	The whole Act.
1986 c.1	The Fines Act 1986.	In Schedule 2, paragraph 81.
2001 c.33	The Education Act 2001.	Section 23(3).
Made 17th July 1980	The Employment of Children Byelaws 1980.	The whole Byelaws.

MADE 9th May 2005

D. McArdle

Minister for Education

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations regulate the types of employment which children (ie. persons under 18) may undertake and the hours of work for which they may be employed. They also require employers to maintain a register of children of school age employed by them, and confer powers of entry to premises where children are employed. They repeal the provisions of the Children and Young Persons Acts 1966 to 1969 relating to the employment of children, and the byelaws made under them, which are superseded by the Regulations.

These Regulations do not affect the Management of Health and Safety at Work Regulations 2003 (SD No. 977/03), regulations 3 and 16 of which make special provision for employees under 18.

EDUCATION ACT 2001

EMPLOYMENT OF CHILDREN REGULATIONS 2005

GUIDANCE NOTES FOR EMPLOYERS AND PARENTS

DEFINITIONS

“Child” means any person under 18 years of age.

“Child of school age” means any child below the upper limit of compulsory school age.

“Light work” means work which does not involve —

- standing for any considerable time;
- walking any considerable distance;
- the operation of heavy machinery;
- moving lifting or carrying heavy weights; or
- any other heavy labour of any description.

“Upper limit of compulsory school age” is defined in the Education Act 2001 and means 16 years. It should be noted, however, that children whose 16th birthdays fall in, say, October or November, are not normally regarded, legally, as having reached the upper limit of compulsory school age until the Friday before the last Monday in the following May.

(see section 23(2), Education Act 2001)

AGE RESTRICTIONS

- No child under 13 years of age may be employed in any work.
- Children aged 13 and 14 years are only allowed to be employed in light work.

Children undertaking work experience placements arranged by schools or those taking part in performances (films, stage productions, etc) under licence* are exempt from these restrictions.

*issued by the Department of Education under the Performances by Children Regulations 2004

PROHIBITED WORK

The following occupations are prohibited for **all** children:—

- street trading;
- selling or delivering alcoholic liquor (within the meaning of the Licensing Act 1995);
- collecting or sorting controlled waste (within the meaning of Part IV of the Public Health Act 1990);
- any work involving indecent activities or exposure to indecent material or activities;

- work in a betting shop;
- work in a slaughterhouse;
- work in premises used for the killing of livestock, butchery or the preparation of carcasses or meat for sale (other than a part of the premises solely used as a retail shop);
- work in a casino, discotheque, dance hall or night club; or
- any other work which is likely to jeopardise his/her moral welfare.

In addition, no **child of school age** is allowed to be employed in work which is —

- likely to be harmful to his/her health or development, or
- such as to prejudice his/her attendance at school, his/her participation in work experience as part of his/her education or his/her “capacity to benefit from the instruction received or experience gained, as the case may be”.

HOURS OF WORK

The following restrictions apply in the case of **children of school age**.

No child may be employed in any work —

- on more than 6 days per week (ie they must have a compulsory ‘rest day’ each week); or
- on a school day, for more than one hour before school starts.

Maximum weekly hours of work: 35 hours (children aged 15 years or over)
28 hours (children aged 13 – 14 years)

Maximum daily hours of work: On school days: 2 hours (where the following day is a school day)
4 hours (where the following day is not a school day)

On non-school days: 7 hours.

It should be noted that these are **overall limits** and that account must be taken by employers of any part-time work being undertaken by a child for another employer. Employers may therefore consider it advisable before employing a child to obtain written confirmation from parents (1) that they are agreeable to their child’s employment, (2) that the child has no other part-time work and, if he or she does have another job, (3) the number of days and hours of work that job involves.

There are no restrictions imposed by the Regulations in the case of children who are over the upper limit of compulsory school age.

EARLIEST AND LATEST TIMES AT PLACE OF WORK

The following restrictions apply in the case of **children of school age**.

On school days: Not before 7.00 am or after 9.00 pm

On non-school days: Not before 7.00 am or after 10.00 pm.

There are no restrictions imposed by the Regulations in the case of children who are over the upper limit of compulsory school age.

REST PERIODS AND BREAKS

The following requirements apply in the case of **children of school age**.

Rest periods: At least 15 minutes after 2 hours' continuous work

At least 1 hour after 4 hours' continuous work. Any short rest periods must be taken into account when calculating a 4 hour period.

Breaks: Children are required to have at least 2 consecutive weeks during each year when they are not either working or required to attend school. No child is allowed to be employed at any time unless he or she has had the required 2 week break, or could still have one.

There are no restrictions imposed by the Regulations in the case of children who are over the upper limit of compulsory school age.

REGISTERS OF EMPLOYMENT

The Regulations require employers to maintain a register containing details of any **children of school age** employed by them.

The following particulars must be entered in the register for each child —

- the child's full name;
- his/her date of birth;
- his/her address;
- the nature of the work undertaken by him/her;
- the date on which his employment began;
- the days and number of hours for which he/she is normally employed;
- the days and number of hours for which he/she was actually employed each week during the previous 6 months;
- his/her hourly rate of pay; and
- if known, the date on which his employment ended.

A pro forma register form has been prepared for use by employers and is available from the Department on request (tel 685820 or e-mail admin@doe.gov.im).

POWERS OF ENTRY

An authorised officer of the Department of Education and/or a police constable may enter and inspect any premises where they have reason to believe that a child is being employed, and make appropriate enquiries.

PENALTIES

Where a child is employed in contravention of the provisions regarding age, prohibited occupations, hours of employment or rests and breaks, the employer and the child's parent(s) are guilty of an offence.

An employer who fails to maintain a register of children of school age employed by him/her, or who obstructs an authorised officer of the Department or a police constable exercising the powers conferred on them, is also guilty of an offence.

The maximum penalty which may be imposed, on summary conviction, is a fine of £5,000.

RISK ASSESSMENTS

Employers are reminded that no one under the age of 18 years is allowed to be employed by them unless or until an appropriate risk assessment has been undertaken.

(see regulation 3, Management of Health and Safety at Work Regulations 2003 (SD No 877/03))

These notes are for guidance only. Employers and parents are advised to read the full Regulations, a copy of which may be obtained from the Department of Education, St George's Court, Upper Church Street, Douglas, Isle of Man, IM1 2SG (tel 685820 or e-mail admin@doe.gov.im).