



Jersey

## **CHILDREN (REGULATION OF EMPLOYMENT) (JERSEY) ORDER 200-**

### **Explanatory Note**

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#### *Introduction*

This Order is made under the Children (Jersey) Law 2002, in exercise of a power for the Minister for Health and Social Services ( the “Minister”) to make Orders with respect to the employment of children - meaning, according to that Law, a person who has not attained the age of 18.

The Minister has powers, under the 2002 Law, to take action if he or she is of the opinion that a child is being employed in a manner that is prejudicial to the child’s health or otherwise to render the child unfit to obtain the full benefit of any education. The Minister may give notice to the employer prohibiting or restricting the child’s employment by the employer. The Minister has further powers to require an employer, parent or guardian of a child to provide such information regarding the child as the Minister needs in order to determine whether the child’s employment is adversely affecting the child’s education.

It should be noted that, by virtue of the 2002 Law, the prohibitions and restrictions in the Order apply to any situation where a child assists in a trade or occupation carried on for profit, even if the child is not remunerated in any way for his or her labour.

Under the 2002 Law, employment of a child in contravention of the Order would be an offence by the employer and by any person (but not the child) to whose act or default the contravention is attributable. The maximum penalty for the offence is a fine of level 3 on the standard scale.

#### *The Order*

##### *Article 1 - Interpretation*

This Article defines expressions used in the Order.

“Child” is defined so as to be a person who is both under the age of 16 and below the upper limit of compulsory school age. The “upper limit of compulsory school age” is defined in the Education (Jersey) Law 1999. A child reaches it on the 30th June in the school year in which he or she has his or her 16th birthday. A school year is also defined in that Law, and is a year commencing on 1st September. The effect of this definition is that –

- (a) the Order does not apply to any child who has attained the age of 16;
- (b) if a child's 16th birthday falls between 1st July to 31st August inclusive in a year, the Order ceases to apply to the child from 30th June in that year.

*Article 2 - Prohibition on employment of children under 13 years of age*

No child under the age of 13 may be employed.

*Article 3 - Permitted hours of employment*

A child may not be employed during school hours. A child may not be employed before 6 a.m. or after 8.15 p.m.

*Article 4 - Restriction on number of hours of employment in a day and week*

The number of hours that a child may work on a day is set according to whether the day falls within a school week or a holiday week. A school week is a week in which there is at least one school day. A holiday week is a week in which there are no school days. The restrictions in paragraph (1) for employment on school days and in school weeks apply to children of all ages. The restrictions in paragraphs (2) and (3) for employment on non-school days and in holiday weeks differ according to whether the child is under 15.

*Article 5 - Restriction on days of employment in a week*

This Article prohibits the employment of a child on more than 6 days in a week.

*Article 6 - Rest periods and breaks*

This Article imposes minimum requirements for the rest period that a child must have in a day and during the school holidays, and the breaks that a child must have when employed for more than 4½ hours.

*Article 7 - Prohibited work*

Paragraph (1) is a general prohibition of employment of a child in work that is either potentially harmful to the child's safety, health or development or which is prejudicial to the child's education.

In addition, paragraph (2) specifies tasks that a child may not do.

*Article 8 - Duty to child who works without pay*

Any child who assists in a business that is carried on for profit is treated as employed, even though the child is not paid. This Article has the effect that the person for whom the child does the work has the same duties towards the child as an employer has to an employee under the Health and Safety at Work (Jersey) Law 1989.

*Article 9 - Employment authorized by other enactment*

Paragraphs (1) and (2) disapply certain provisions of this Order to certain employments where alternative regulation applies, whether under a licence granted by the Minister authorizing a child to take part in a public performance or whether the employment is on a Jersey ship and regulated by the Shipping (Employment of Young People) (Jersey) Order 2007.

By virtue of Article 26 of the Education (Jersey) Law 1999, the prohibition in Article 3 of this draft Order on employment during school hours and the limit in Article 4 on



the number of hours for which a child may be employed on a school day do not apply when the child is in a work experience placement arranged or approved by the child's school. Paragraph (3) of this Article disapplies the prohibition on employment during school hours where the child is in such a placement and provides for hours spent in such a placement to be disregarded when applying the rules in this Order as to the maximum number of hours for which and the maximum number of days for which a child may be employed.

*Article 10 - Citation and commencement*

This Article provides for the citation of the Order and its commencement .....





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### Arrangement

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#### Article

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## CHILDREN (REGULATION OF EMPLOYMENT) (JERSEY) ORDER 200-

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE MINISTER FOR HEALTH AND SOCIAL SERVICES**

### 1 Interpretation

(1) In this Order, unless the context otherwise requires –

“child” means a person who has not attained the age of 16 years and is below the upper limit of compulsory school age;

“premises” includes land, a vehicle and a trailer;

“school day” means, in relation to a child, any day on which the school at which a child is registered is open for instruction;

“school term” means, in relation to a child, a term for the school at which the child is a pupil;

“week” means any period of 7 consecutive days commencing with Monday.

(2) For the purposes of this Order –

(a) any reference to employment shall be construed so as to include work done for another person; and

(b) any reference to an employer shall be construed as to include the person for whom that work is done,

where the work is done in the circumstances described in Article 48(5) of the Children (Jersey) Law 2002.

(3) Where a child is employed by more than one employer, the child’s working hours shall be cumulative.

### 2 Prohibition on employment of children under 13 years of age

A child who is under the age of 13 years shall not be employed in any capacity.

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**3 Permitted hours of employment**

A child may only be employed, on any day, outside school hours, between 6 a.m. and 8.15 p.m..

**4 Restriction on number of hours of employment in a day and week**

- (1) A child shall not be employed –
  - (a) on any school day, for more than 2 hours;
  - (b) in a school week, for more than 12 hours.
- (2) A child aged under 15 years shall not be employed –
  - (a) on any day which is not a school day, for more than 7 hours;
  - (b) in a holiday week, for more than 25 hours.
- (3) A child aged 15 years shall not be employed –
  - (a) on any day which is not a school day, for more than 8 hours;
  - (b) in a holiday week, for more than 35 hours.
- (4) For the purposes of this Article –
  - (a) a school week is any week in which there is at least one school day;
  - (b) a holiday week is any week in which there are no school days.

**5 Restriction on days of employment in a week**

A child shall not be employed on more than 6 days in a week.

**6 Rest periods and breaks**

- (1) In each period of 24 hours, a child shall have a rest period of at least 14 consecutive hours.
- (2) In each period of one year a child shall have, during a school holiday, a rest period free of work of at least 2 consecutive weeks.
- (3) Where a child works for more than 4½ hours in a day, the child shall be entitled to an uninterrupted rest period of at least 30 minutes.

**7 Prohibited work**

- (1) A child shall not be employed in work which –
  - (a) is likely to be harmful to the child's safety, health or development;  
or
  - (b) is such as to prejudice the child's attendance at school, the child's participation in vocational orientation or training programmes, or the child's capacity to benefit from the instruction received.
- (2) Without prejudice to the generality of paragraph (1), a child shall not, in the course of his or her employment –

- (a) undertake work of any kind in premises which are a nightclub, dance hall, discotheque, bar or public house or like establishment unless the work is licensed under Article 50(1) of the Law or work for which a licence is not required by virtue of paragraph (3) of that Article;
- (b) undertake work of any kind in a kitchen in which food is prepared for sale in the course of a business;
- (c) undertake work of any kind in a slaughterhouse or in any part of a butcher's shop or other premises connected with the killing of livestock, butchery or the preparation of carcasses or meat for sale;
- (d) sell or deliver liquor;
- (e) sell or deliver tobacco;
- (f) sell or deliver fuel oil;
- (g) collect or sort refuse;
- (h) undertake any work, whether in a fairground or amusement arcade or like place, connected with the provision of public amusement by means of automatic machines, shooting ranges or games of chance or skill;
- (i) undertake any work which involves harmful exposure to physical, biological or chemical agents;
- (j) undertake any work which involves door-to-door sales or canvassing or collection of money in payment for goods delivered to households, or any related work, unless the child works under the direct and constant supervision of an adult;
- (k) undertake any work at an elevation from which the child could fall more than 2 metres, whether or not the work is undertaken using a ladder, scaffold, harness, platform or any other temporary or permanent structure;
- (l) undertake any work administering personal care to residents of a nursing home, mental nursing home or residential care home, within the meaning of the Nursing and Residential Homes (Jersey) Law 1994;
- (m) undertake any work which involves exposure to adult material or places the child in situations which are, for this reason, otherwise unsuitable for children.

## **8 Duty to child who works without pay**

Where, by virtue of Article 48(5) of the Children (Jersey) Law 2002 a child is, for the purposes of this Order, treated as employed, the employer shall have the same duties to the child as an employer would have to an employee under the Health and Safety at Work (Jersey) Law 1989.

**9 Employment authorized by other enactment**

- (1) Article 2 or 3 of this Order shall not apply to the employment of a child to the extent that, as the case requires, the employment of a child under the age of 13 or the employment of a child outside the hours permitted by Article 2 is authorized by a licence granted by the Minister under Article 50 of the Children (Jersey) Law 2002 or permitted, without a licence, by paragraph (3) of that Article.
- (2) Articles 6,7 and 8 of this Order shall not apply to the employment of a child to which the Shipping (Employment of Young People) (Jersey) Order 2007 applies.
- (3) An employment arranged or approved as described in Article 26(2) of the Education (Jersey) Law 1999 shall be disregarded when calculating, for the purposes of Article 4 or 5 of this Order, any cumulative total of hours or days of employment.

**10 Citation and commencement**

This Order may be cited as the Children (Regulation of Employment) (Jersey) Order 200- and shall come into force on [.....].

