



Code of Practice

Concerning the Employment of
Young Persons in Licensed Premises



Useful Telephone Numbers

Workplace Relations Commission, Information and Customer Services — Department of Enterprise, Trade & Employment	(059) 9178990 Lo-call 0818 80 80 90
ICTU	(01) 889 7777
Irish Hotels Federation	(01) 497 6459
LVA	(01) 668 0215
MANDATE	(01) 874 6321
National Parents Council post primary	(01) 862 3346
Restaurants Association of Ireland	(01) 677 9901
VFI	(01) 492 3400

Foreword by Tom Kitt, T.D., Minister for Labour, Trade and Consumer Affairs.

As Minister with responsibility for Labour Affairs, I am very aware of the need to ensure that labour legislation is well explained and understood by employers and employees.

One area where, I believe, it is imperative that labour legislation is well known and understood by employers and employees alike, is that dealing with the protection of young persons in employment. In this regard, I was very pleased to facilitate the drawing up of a Code of Practice for Young Persons Working in Licensed Premises.

I welcome the Code which is the product of fruitful collaboration between the Irish Congress of Trade Unions, the Irish Hotels Federation, the Licensed Vintners Association, Mandate Trade Union, the National Parents Council post primary, the Restaurants Association of Ireland and the Vintners Federation of Ireland.

The Code provides practical guidance as to the steps that may be taken for the purposes of compliance with the Protection of Young Persons (Employment) Act, 1996 and other relevant employment legislation. It also contains valuable information of assistance to both employers and employees with regard to identifying the obligations, responsibilities and entitlements associated with employing young persons in licensed premises.

I urge all parties to the Code to play their parts in ensuring that it is implemented in a practical and effective manner, to the benefit of all concerned.

Tom Kitt TD
Minister for Labour, Trade and Consumer Affairs
July, 2001

Introduction

The main purpose of this Code of Practice is to set out for the guidance of employers and employees the duties and responsibilities (*including statutory obligations*) in relation to the employment of young persons *on general duties in licensed premises*.

This Code of Practice covers 16 and 17 year olds, including all second level students (excluding bar apprentices in the licensed trade) who are employed at any time in licensed premises be it summer, other holidays or part-time work.

Meetings and consultations were held for the purposes of the preparation of this Code between representatives of (a) The Irish Congress of Trade Unions, (b) The Irish Hotels Federation, (c) The Licensed Vintners Association, (d) Mandate, (e) The National Parents Council post primary, (f) The Restaurants Association of Ireland and (g) The Vintners Federation of Ireland, who are all party to this Code.

For the purposes of this Code;

“licensed premises” means premises –

(a)to which a licence (within the meaning of the Licensing Acts, 1833 to 2000) is attached, and

(b)the whole or any part of which is used to sell food or intoxicating liquor or both for consumption thereon.

“general duties” does not include supplying intoxicating liquor from behind the bar counter in licensed premises or supplying it for consumption off those premises.

To ensure that some of these employees, who may be interested in careers in the industry, are encouraged to consider such long term options, it is important that their work experience is positive and that they receive on-going training.

It is also important that the purpose, function and terms of this Code are known and understood by management, employees, trade unions and parents.

Employers who are party to this Code, shall not discriminate against any young person who seeks his/her entitlements under employment legislation or otherwise or the benefit of this Code.

General Principles

1 Provision of Written Terms and Conditions of Employment

Section 3 of the Terms of Employment (Information) Act, 1994, provides that an employer must provide a written statement of terms of employment to those employees who are at least 1 month in employment, within 2 months of commencement of employment. Notwithstanding this, these provisions will be complied with by employers covered by this Code on commencement of employment of all young persons in their employment, and shall include such information as is required by the Act, including the rate of pay for the job and starting and finishing times.

Regulations made under section 11 of the 1994 Act require an employer to produce to an employee, who is a young person, a copy of an abstract of the Protection of Young Persons (Employment) Act, 1996, within a month of commencement of employment. Employers will ensure that this will be complied with.

In accordance with Regulations made under the Act, employers shall ensure that the Abstract of the Protection of Young Persons (Employment) Act, 1996, is on display in a prominent position.

Employers shall also ensure that the provisions of the Protection of Young Persons (Employment) Act, 1996, are complied with in relation to the employment of the young persons, with particular regard to hours of work, breaks and finishing times.

Employers shall further ensure that the provisions of the Organisation of Working Time Act, 1997, are complied with, with particular regard to annual leave entitlement, public holiday entitlement and payment of Sunday premium.

Employers shall ensure that the provisions of sections 29 and 30 of the Education (Welfare) Act, 2000, are complied with. These sections, in summary, provide that a 16 or 17 year old, other than a person who is a registered student or who is engaged in or has completed a prescribed programme of education, training or instruction, may not be employed by an employer unless the person is the holder of a certificate issued by the National Educational Welfare Board. The Act imposes on the Board

a duty to provide for the continuing education and training of such young persons.

2 Rates of Pay

- (i) The rate of pay will be a matter for local agreement, whether made collectively or otherwise, having taken into account the provisions of the National Minimum Wage Act, 2000.
- (ii) Section 4 of the Payment of Wages Act, 1991, provides that every employer must arrange that a written statement of wages be given to every employee with every payment of wages. Employers shall ensure that all young persons employed are given such written statements of wages and deductions.

3 Induction Training

On commencement of employment, the young person shall receive appropriate training on all aspects of his/her employment. This process shall include the supply of written copies of - i) this Code of Practice; ii) the statement of the terms of the employment; iii) a summary of the provisions of the Protection of Young Persons (Employment) Act, 1996; and iv) a copy of any relevant Collective Agreement or Employment Regulation Order.

4 Study Time

Provision should be made for students with impending examinations. These should allow for study leave and leave to sit the exams, without having to work excessive hours in the period approaching the exams. Employers shall ensure that a student's job is protected in the event of his/her returning to work following study/exam leave.

Employees are required to give at least 4 weeks' notice of such leave.

5 Continuing Education and Training

Provision should also be made for young persons who, while they are not registered as full-time students in a school or other education institution, are engaged in education and training programmes. These should allow for reasonable flexibility in the number of working hours and the time of such work as the demands of any education or training programme require.

6 Right to Representation

In the event of the employee having a difficulty with any aspect of his/her contract of employment, the employer recognises the right of the employee to trade union representation.

7 Health and Safety

Employers shall ensure that the risk assessments in the Safety Statement required under the Safety, Health and Welfare at Work Act, 1989 should take account of the particular needs of young persons in employment, with particular regard to the Safety, Health and Welfare at Work (Children and Young Persons) Regulations, 1998.

8 Bullying, Sexual Harassment and Equality Issues

Explanations on these matters and details of internal grievance procedures shall be given in the training session.

9 Requirement to Work Beyond Grade

Employers shall specify in the terms of employment, the types of work that young persons may be asked to perform and prevent abuses by employers such as requiring the young person to perform tasks appropriate to other grades.

10 Consent of Parent or Guardian

Before employing the young person, the employer shall obtain the written permission of the parent or guardian of the young person.

In accordance with the Protection of Young Persons (Employment) Act, 1996, before employing the young person, the employer shall require the production of a copy of the birth certificate of, or other satisfactory evidence of age of the young person.

Obtaining the consent of a parent or guardian should also include consultation with the employer on arrangements to get the employee home after work.

11 Review of Code of Practice

The Code of Practice may be reviewed after six months in operation.

12 Signatories to the Code of Practice

I hereby agree to the Terms of the Code of Practice as set out above.

Irish Congress of Trade Unions

Irish Hotels Federation

Licensed Vintners Association

Mandate

National Parents Council post primary

Restaurants Association of Ireland

Vintners Federation of Ireland

Signed in the presence of Mr. Tom Kitt T.D., Minister for Labour, Trade and Consumer Affairs.



Detach here (This part is to be retained by the Employee)

Code of Practice - Employment of Young Persons in Licensed Premises

I have read and understand the Code of Practice and agree to adhere to its contents.

Employee _____

Employer _____

Date _____

Parental or Guardian consent

I agree to the employment of _____ with the above employer.

Signature of either parent or guardian

Date







Detach here (This part is to be retained by the Employer)

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