



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Proposed Amendment to the Employment of Children
Regulations (Northern Ireland) 1996**

Response of the Northern Ireland Human Rights Commission

1. The Northern Ireland Human Rights Commission (the Commission) is a statutory body created by the Northern Ireland Act 1998. It has a range of functions including reviewing the adequacy and effectiveness of Northern Ireland law and practice relating to the protection of human rights,¹ advising on legislative and other measures which ought to be taken to protect human rights,² advising on whether a Bill is compatible with human rights³ and promoting understanding and awareness of the importance of human rights in Northern Ireland.⁴ In all of that work the Commission bases its positions on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), other treaty obligations in the Council of Europe and United Nations systems, and the non-binding 'soft law' standards developed by the human rights bodies.
2. The Commission welcomes the opportunity to provide comments to the Department of Health, Social Services and Public Safety (DHSSPS) on the proposed amendment to the Employment of Children Regulations (NI) 1996 (the Regulations). The proposals are designed to implement the provisions of Article 8.1 of EC Directive 94/33. The Commission is grateful for the extension of time provided for its response and would welcome feedback from the

¹ Northern Ireland Act 1998, s.69(1).

² *Ibid.*, s.69(3).

³ *Ibid.*, s.69(4).

⁴ *Ibid.*, s.69(6).

Department on its comments. Where it is decided not to take account of the comments made, the Commission would be grateful for an indication of the reasons for not doing so.

3. The Commission notes that although the Northern Ireland Commissioner for Children and Young People is specified on the list of consultees, the list does not include key children's rights organisations or representatives from the children's sector. We trust that steps have been or will be taken to secure an inclusive and effective consultation, in line with best practice and with the obligations arising from domestic law (notably s.75 Northern Ireland Act 1998) and international law (notably the United Nations Convention on the Rights of the Child, or CRC).
4. The Commission is committed to protecting and promoting the rights of all children in Northern Ireland. Some of the main human rights provisions engaged by the proposed amendment are the definition of the child as any individual under 18 (Article 1 CRC); the non-discrimination principle (Art. 2 CRC and Art. 14 ECHR); the best interests principle (Art. 3 CRC); participation rights (Art. 12 CRC); survival, health and welfare (Arts. 6, 26, 27, and 29 CRC), children's right to education (Art. 28 CRC); the right to rest and leisure (Art. 31 CRC) and freedom from exploitation (Art. 32 CRC).
5. The Commission welcomes the proposed amendment to the Regulations which will bring Northern Ireland into line with the EC Directive. By reducing the number of hours a child may work in term-time, the amendment offers greater protection of the child's right to educational opportunity.
6. The Commission notes the serious issues raised in the research report by Save the Children, *Play Fair with Working Children* (1999). The research found that substantial numbers of those children surveyed in Northern Ireland were working illegally – for example working before the age of 13 (p4) or working after 7pm on school days (p6). It is also important to note that few of the children surveyed were aware of the current legislation or of their rights regarding employment (p11).
7. While welcoming the proposals, the Commission urges DHSSPS to consult on ways of strengthening the process of enforcement of legislation relating to working children. The Commission is not convinced that the employment card system is working effectively (as evidenced in the Save the

Children research). More broadly, the Commission urges Government to consult on how best to protect the rights of working children and enhance these children's knowledge of their rights in relation to employment.

8. While concerned about the potential impact of paid employment on children's education, it is also important to note that children surveyed by Save the Children considered that there were many positive aspects to their employment including giving them independence, skills and experience, enjoyment and financial reward.
9. The Commission notes that for poorer families, however, children's employment and the wages brought home may contribute to the family income. While supporting the proposed amendment, the Commission recommends that DHSSPS examine any potential impact of the reduction of children's working potential on childhood poverty and take any ameliorative action necessary. In principle, of course, no child should be obliged to work through economic necessity.
10. The Commission would draw the Department's attention to the various studies of children's employment carried out by the Trades Union Congress, for example *Class Struggles* (2001) and *Too Much Too Young* (2002, with NSPCC). *Class Struggles* indicated that part-time employment impacted on young people's schooling – more than one quarter of children in work were either 'often' or 'sometimes' too tired to do homework or schoolwork because of their jobs. *Too Much Too Young* concluded that the current legislation was too fragmented and inaccessible to young people.
11. In relation to the issue of children working on Sunday, the Commission recommends that Government should consult on allowing children to work for more than two hours on a Sunday. The Commission is aware of sensitivities around the issue, and respects the views of those who wish to keep Sunday as a special day whether for religious or for other reasons. However, in the interests of non-discrimination the rights of those children who may prefer to work on a Sunday must also be taken into account (Article 14 CRC, freedom of thought, conscience and religion). Limits that are weighted towards greater opportunity to work on Saturday might, for example, be said to disfavour Jewish children, and the small numbers potentially affected in Northern Ireland would not be a valid justification for maintaining the potentially discriminatory impact of the present Regulation 3(2). A more

equitable approach might be to recast the Regulations to refer only to weekly total hours, or to a maximum that may be worked at weekends.

12. Another aspect in which the current limit may be adjudged discriminatory is in relation to age, in that among the adult workforce around 11 per cent currently work on Sundays without such a restriction (Northern Ireland Labour Force Survey, Spring 2004). Children themselves should be consulted on this issue.
13. On the issue of equality impact screening, the Commission would not wish to see the introduction of the proposed amendment held back by the process, but it is clear that the amendment does in fact raise issues of equality, such as might justify more than the "limited consultation" mentioned at paragraph 18 of Annex C. Further research would be necessary to demonstrate whether there will be unequal impact for example, between boys and girls or children from different community backgrounds (notably as to religion and ethnicity).
14. In summary, while the Commission welcomes the proposed amendment it urges Government and the Department to take a broader look at the question of children's employment and how best children's rights can be protected in this area.

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