

Work Experience and 'Working' on Navigable Craft

1. Section 560 of the Education Act 1996 (as amended by Section 112 of the School Standards and Framework Act 1998) disapplies employment law to enable 14-16 work experience. But it specifies that it shall not be taken to permit the employment of a person in any way contrary to section 55(1) of the Merchant Shipping Act 1995 (which prohibits the employment of children in ships).
2. The Merchant Shipping Act 1970 (revised often, including 1995) states at 55(1) "A person under school-leaving age shall not be employed in any United Kingdom ship except as permitted by regulations under this section."
3. An HSE Inspector has commented that a key word is "employed", and that the normal interpretation of "employed" in the work context would not include work experience students.
4. The considered opinion of an expert consultant to the National EBP Network, having examined relevant case law, is that the Merchant Shipping Act was not put on the statute books to prohibit young people from working on the water in situations managed by organisations (clubs) like the Royal Yachting Assoc (RYA) and the British Canoe Union (BCU). A recommended safeguard is that clubs be regulated and inspected by the RYA or BCU or the Adventure Activity Licensing Authority.
5. Furthermore, the consultant opines that it has been made clear in case law that a number of categories of 'boats' are not covered by the Act, including club boats.
6. Those organising activities such as kayaking and sailing should, in their planning and risk assessment, take account of the presence of, and the need to safeguard, young people on work experience. Such young people should not be counted as members of staff when considering the number of members of staff required for an activity to be conducted safely.

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