
*Changes to legislation: There are currently no known outstanding effects
for the Enterprise Act 2016, Paragraph 3. (See end of Document for details)*

SCHEDULES

SCHEDULE 5

SUNDAY WORKING

Employment Rights Act 1996

3 After section 41 insert—

“41A Notice of objection by shop workers to working additional hours on Sunday

- (1) A shop worker may at any time give to his or her employer a written notice, signed and dated by the shop worker, to the effect that he or she objects to doing shop work for additional hours on Sunday.
- (2) In this Part—
 - “additional hours” means any number of hours of shop work that a shop worker is (or could be) required to work under a contract of employment on Sunday that are (or would be) in excess of the shop worker's normal Sunday working hours;
 - “objection notice” means a notice given under subsection (1).
- (3) The “normal Sunday working hours” of a shop worker are to be calculated in accordance with regulations.
- (4) Regulations under this section may provide—
 - (a) for the calculation to be determined (for example) by reference to the average number of hours that the shop worker has worked on Sundays during a period specified or described in the regulations;
 - (b) for a calculation of the kind mentioned in paragraph (a) to be varied in special cases;
 - (c) for the right to give an objection notice not to be exercisable in special cases (and subsection (1) is subject to provision made by virtue of this paragraph).
- (5) Provision under subsection (4)(b) or (c) may, in particular, include provision—
 - (a) about how the calculation of normal Sunday working hours is to be made in the case of a shop worker who has not been employed for a sufficient period of time to enable a calculation to be made as otherwise provided for in the regulations;
 - (b) for the right to give an objection notice not to be exercisable by such a shop worker until he or she has completed a period of employment specified or described in the regulations.

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- (6) But regulations under this section may not include provision preventing a shop worker who has been continuously employed under a contract of employment for a period of one year or more from giving to the employer an objection notice.
- (7) Regulations under this section may make different provision for different purposes.

41B Explanatory statement: persons who become shop workers

- (1) This section applies where a person becomes a shop worker who, under a contract of employment, is or may be required to do shop work on Sundays.
- (2) The employer must give to the shop worker a written statement informing the shop worker of the following rights—
 - (a) the right to object to working on Sundays by giving the employer an opting-out notice (if section 40 applies to the shop worker);
 - (b) the right to object to doing shop work for additional hours on Sundays by giving the employer an objection notice.
- (3) The statement must be given before the end of the period of two months beginning with the day on which the person becomes a shop worker as mentioned in subsection (1).
- (4) An employer does not fail to comply with subsections (2) and (3) in a case where, before the end of the period referred to in subsection (3), the shop worker has given to the employer an opting-out notice (and that notice has not been withdrawn).
- (5) A statement under this section must comply with such requirements as to form and content as regulations may provide.
- (6) Regulations under this section may make different provision for different purposes.

41C Explanatory statement: shop workers at commencement date

- (1) This section applies where—
 - (a) under a contract of employment a shop worker is or may be required to do shop work on Sundays, and
 - (b) the shop worker was employed under that contract on the day before the commencement date.
- (2) The shop worker's employer must give to the shop worker a written statement informing the shop worker of the rights mentioned in section 41B(2).
- (3) The statement must be given before the end of the period of two months beginning with the commencement date.
- (4) An employer does not fail to comply with subsections (2) and (3) in a case where, before the end of the period referred to in subsection (3), the shop worker has given to the employer an opting-out notice (and that notice has not been withdrawn).

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- (5) A statement under this section must comply with such requirements as to form and content as regulations may provide.
- (6) Regulations under this section may make different provision for different purposes.
- (7) In this section “commencement date” means the date appointed by regulations under section 44 of the Enterprise Act 2016 for the coming into force of section 33 of, and Schedule 5 to, that Act.

41D Failure to give explanatory statement under section 41B or 41C

- (1) This section applies if an employer fails to give to a shop worker a written statement in accordance with—
 - (a) section 41B(2) and (3), or
 - (b) section 41C(2) and (3).
- (2) If the shop worker gives to the employer an opting-out notice, the notice period under section 41(3) that applies in relation to the shop worker is varied as follows—
 - (a) if the notice period under that provision would have been one month, it becomes 7 days instead;
 - (b) if the notice period under that provision would have been three months, it becomes one month instead.
- (3) If the shop worker gives to the employer an objection notice, the relevant period under section 43ZA(2) that applies in relation to the shop worker is varied as follows—
 - (a) if the relevant period under that provision would have been one month, it becomes 7 days instead;
 - (b) if the relevant period under that provision would have been three months, it becomes one month instead.”

Commencement Information

II Sch. 5 in force at Royal Assent for specified purposes, see s. 44(1)(d)

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