



The Requirements of the Employment Protection (Sunday Shop Working) (Guernsey) Law, 2001

Note: This Employment Guide is intended to provide general guidance only. It does not constitute legal advice and should not be relied upon as doing so.

Advisory Officers, at the Employment Relations Service, can offer confidential and free advice on all aspects of employment law and employment relations.

Overview

Introduction

Under The Employment Protection (Sunday Shop Working) (Guernsey) Law, 2001, shop workers have the right:

- not to be dismissed;
- not to be selected for redundancy;
- not to suffer any other detriment;

for refusing, or proposing to refuse, to do work in or about a shop on a Sunday.

These rights apply irrespective of age, length of service or hours of work. However, they **do not apply to those employed to work only on Sundays**. A dismissal related to a refusal to do shop work on Sundays is 'automatically unfair'.

How are 'shop worker' and 'shop' defined?

'Shop Worker'

A 'shop worker' is 'an employee who, under his contract of employment, is or may be required to do 'shop work'.

'Shop work' means 'work in or about a shop in Guernsey on a day on which the shop is open for the serving of customers'.

'Shop'

A 'shop' includes 'any premises where any retail trade or business is carried on'.

In certain circumstances, the Law covers not only retail businesses, but also wholesale businesses where both are carried out simultaneously.

Who is protected by the Law?

Some shop workers are automatically 'protected' from having to work Sundays, others need to 'opt out' of Sunday working.

'Protected' shop workers qualify for these rights automatically, and can simply tell their employer that they no longer wish to work on Sundays. They can then only give up their right not to work on Sundays by giving their employer a signed and dated written 'opting-in notice' that says that they **do** want to work on Sundays or that they **do not object** to working on Sundays. They must then agree with their employer exactly what work on Sundays, or on any particular Sunday, they are agreeing to do.

All other shop workers can 'opt out' of Sunday working by giving their employer three months' notice, in writing, that they want to stop working on Sundays.

Who qualifies as an automatically 'protected' worker?

- Those shop workers employed by the same employer since before the date when the law came into force (1st July 2002) including those who, before that date, had agreed to work on Sundays.
- All shop workers whose contract of employment does not require them to work on Sundays. (These shop workers are already protected by virtue of their contract of employment.)

Who needs to serve a three month notice period in order to 'opt out'?

Shop workers who, after the date the Law came into force (1st July 2002), entered into an employment contract in which they work Sundays or can be required to do so, for example, new recruits who initially agreed to do Sunday work, but no longer wish to do.

Who is NOT protected by this Law?

The right not to work Sundays does not apply to those shop workers employed to work only Sundays.

How to opt out of Sunday shop work

Shop workers who want to opt out of Sunday working must give their employer a signed and dated written notice saying that they object to Sunday working. They do not have to give any reason. They must then serve a three month notice period.

During this period they still have to do the Sunday work required under their employment contract, if their employer wants them to do it.

However, shop workers may not be dismissed or subjected to any other detriment by their employer, during the notice period, for giving an 'opting-out notice'. Once the three month notice period has ended, the worker has the right not to do Sunday shop work, because he or she is protected as an 'opted out' shop worker. The right to opt out is a continuing one. Any shop worker who opts in to Sunday working has the right to opt out again at any time, subject to giving the 'opting-out notice' and the three months' notice.

Explanatory Statement

Employers **must** give every shop worker who is, or who may be, required by his or her contract of employment to work on Sundays, a written statement explaining the right to opt out. This statement must be given to the worker within two months of the date he or she starts work. (It is a good idea to include the statement with the employee's written statement or contract of employment.) If the employer fails to do this, and the worker gives the employer an 'opting-out' notice, then the period of that notice is reduced from three months to one month. This means that the worker can stop working Sundays after only one month instead of after the normal three month period.

The prescribed text of the explanatory statement for shop workers can be found on the following page. The explanatory statement can be freely reproduced, for example if employers wish to distribute copies them to their workforce.

Other Publications

Publications can be downloaded from the website on a wide range of employment relations matters including local employment legislation and best practice guidance on other employment related matters.

Explanatory statement: the prescribed text

STATUTORY RIGHTS IN RELATION TO SUNDAY SHOP WORK

You have become employed as a shop worker and are or can be required under your contract of employment to do the Sunday work your contract provides for.

However, if you wish, you can give a notice, as described in the next paragraph, to your employer and you will then have the right not to work in or about a shop on any Sunday on which the shop is open once three months have passed from the date on which you gave the notice.

Your notice must:

- be in writing;
- be signed and dated by you;
- say that you object to Sunday working

For three months after you give the notice, your employer can still require you to do all the Sunday work your contract provides for.

After the three month period has ended, you have the right to complain to the Employment & Discrimination Tribunal if, because of your refusal to work on Sundays on which the shop is open, your employer: dismisses you, or does something else detrimental to you, for example, failing to promote you.

Once you have the rights described, you can surrender them only by giving your employer a further notice, signed and dated by you, saying that you wish to work on Sunday or that you do not object to Sunday working and then agreeing with your employer to work on Sundays or on a particular Sunday.

Contact Information

For further advice

- Check www.gov.gg/employmentrelations
- Email employmentrelations@gov.gg
- **Contact the Employment Relations Service**, Edward T Wheadon House, Le Truchot, St Peter Port, Guernsey, GY1 3WH
- **Call us on** 01481 732583