

Sunday Working for Shop and Betting Workers

A guide to
your rights

Usdaw
*Union of Shop, Distributive
and Allied Workers*
www.usdaw.org.uk

Introduction

The laws in relation to Sunday working for shop and betting workers in England and Wales are now consolidated into the Employment Rights Act 1996.

In Scotland and Northern Ireland, the law and regulations provide similar rights for shop and betting workers.

It is important that you understand your Sunday Working Rights and any document that you are asked to sign by your employer relating to Sunday working.

If you have any doubts, contact your Usdaw rep or full-time official for advice.

General

If you are a 'protected' shop or betting worker, this means that you are **automatically** protected from having to work on Sunday if you object to doing so.

If you are not an automatically protected worker, you can still '**opt-out**' of Sunday working.

Are you an automatically protected worker?

Under the law you will be a protected shop or betting worker if:

In England and Wales you are:

- A shopworker who has been with the same employer since 26 August 1994 or earlier.
- A betting worker who has been with the same employer since 3 January 1995 or earlier.
- A shop or betting worker who cannot be required to work on Sundays under their contract.

In Northern Ireland:

- A shopworker who has been with the same employer since 4 December 1997 or earlier.
- A betting worker who has been with the same employer since 26 February 2004 or earlier.

- A shop or betting worker who cannot be required to work on Sundays under their contract.

In Scotland:

- The only automatically protected employees in Scotland are those whose contracts cannot require them to work on Sundays.

Your rights as a protected shop or betting worker

If you are an automatically protected worker, you have the following rights:

- You can refuse to do Sunday work.
- You cannot be dismissed, disciplined or treated less favourably, such as being denied overtime, promotion or training opportunities, if the reason for such treatment is your refusal to work on Sunday.
- If you are dismissed, disciplined or treated less favourably, you can complain to an Employment Tribunal whatever your length of service. A grievance should be lodged and you should discuss the matter with your rep and full-time official.

These rights do not apply to those who are only employed to work on a Sunday and not on any other days of the week.

I am a protected worker but I would like to work on Sundays

- You can give up your right as a protected worker not to work on Sunday by giving your employer a written signed and dated '**opting-in notice**'.
- The '**opting-in notice**' should say that you want to work Sundays or that you do not object to doing so.
- In addition to the '**opting-in notice**' you should agree with your employer how many Sundays you wish to work, for example, every one which is available or one in every four weeks. It is preferable to have whatever is agreed between you and your employer put in writing and you should keep this safely.

- If you are happy to work on occasional Sundays, on an informal basis, you can do so without signing an **'opting-in notice'**, this will preserve your **'protected'** status.
- Do not sign an **'opting-in notice'** unless you understand what it means and you are happy about doing so.
- Remember, you cannot be forced to **'opt-in'** against your wishes. If you have any concerns you should contact your rep or full-time official.
- If you do give your employer an **'opting-in notice'**, you can change your mind later on and **'opt-out'**, however, you are required to give your employer three months' notice if you wish to **'opt-out'** and you can be required to work the Sundays which you have previously agreed until the three months' notice period comes to an end.

I am not an automatically protected worker – what rights do I have?

If you are not an automatically protected worker and you do not wish to work Sundays, then you can provide your employer with three months' notice in order to **'opt-out'** of being required to work on a Sunday.

How do I 'opt-out' of Sunday shop or betting work?

- You must give your employer a signed and dated written notice saying that you object to Sunday working – you do not have to give any reasons for your objection, you should ask your employer for a written acknowledgement of your **'opt-out notice'** and keep this safely.
- You must then serve a three months' notice period and during this period you are required to fulfil your normal Sunday working attendance requirements if your employer requires you to do so.

- Once the three months' notice period has ended, you have the right not to do any Sunday shop or betting work because you have now '**opted-out**' of doing so.
- As an '**opted-out**' worker, you have the same rights as an automatically protected worker, namely:
 - You can refuse to do Sunday work.
 - You cannot be dismissed, disciplined or treated less favourably, such as being denied overtime or promotion or training opportunities, if the reason for such treatment is your refusal to work on a Sunday.
 - If you are dismissed, disciplined or treated less favourably, you can complain to an Employment Tribunal whatever your length of service. A grievance should be lodged and you should discuss the matter with your rep and full-time official.
- The right to '**opt-out**' applies regardless of length of service. However, the right does not apply to those who are employed to work Sundays only and not on any other day of the week.
- It is important to remember that if you do '**opt-out**', your employer is under no obligation to top up your hours during the rest of the week.

The employer's statutory notice

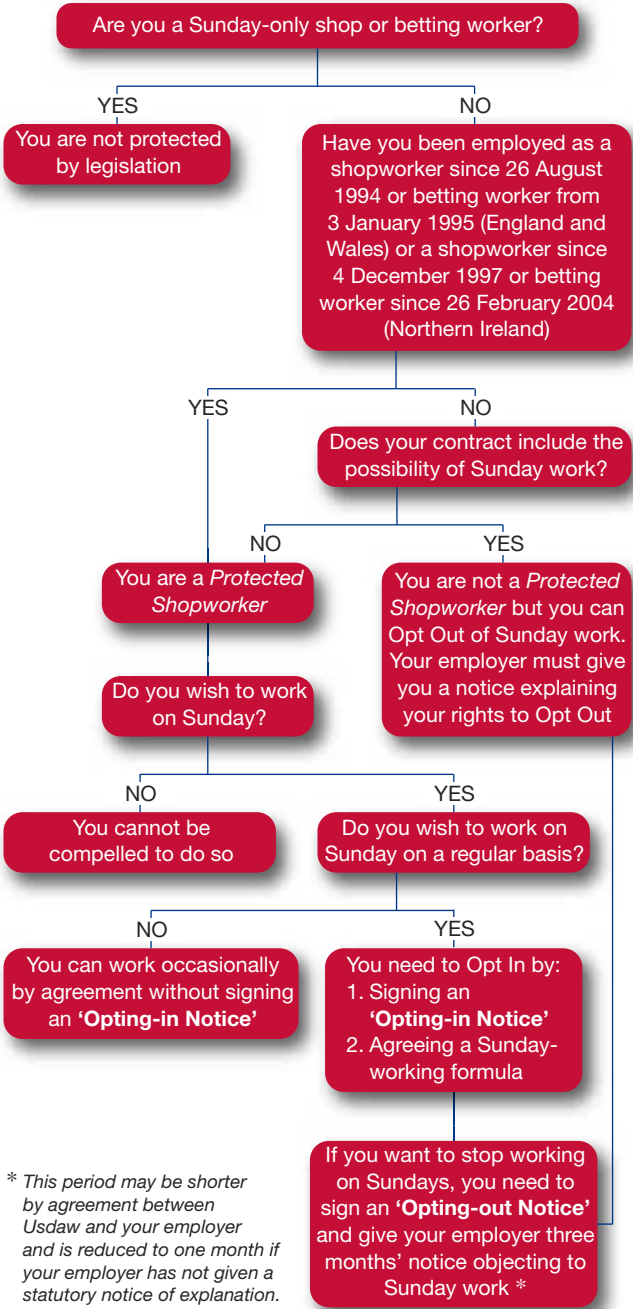
Employers are required to give every shop and betting worker who is, or who may be, required by their employment contract to work on Sundays, a written statement explaining the right to '**opt-out**'. This statement must be given to the worker within two months of the date he or she starts work. If an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

Enforcement of your rights

If you encounter any problems in enforcing your rights, you should firstly try to resolve them informally with your employer with the help of your rep. If matters cannot be sorted out informally, then you should raise a formal grievance in writing with your employer.

If you remain unhappy with the outcome of the grievance, you may apply to an Employment Tribunal to enforce your rights. In doing so you have to act quickly as you should assume that the time limit for doing so is within three months of your complaint of dismissal, discipline or unfavourable treatment having arisen. Remember that the time limit clock will be ticking even though you may be pursuing the grievance procedure with your employer. You should contact your full-time official for advice and assistance as soon as possible within this three month period.

A summary of your rights



* This period may be shorter by agreement between Usdaw and your employer and is reduced to one month if your employer has not given a statutory notice of explanation.

Further information

For further information about your rights or to join Usdaw please contact your Union Representative or local Union office. You can contact your local office by telephoning

0845 6060640*

or visit our website

www.usdaw.org.uk

or write to

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