



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART IV **E+W+S**

#### SUNDAY WORKING FOR SHOP AND BETTING WORKERS

##### *Protected shop workers and betting workers*

### 36 **Protected shop workers and betting workers.** **E+W+S**

- (1) Subject to subsection (5), a shop worker or betting worker is to be regarded as “protected” for the purposes of any provision of this Act if (and only if) subsection (2) or (3) applies to him.
- (2) This subsection applies to a shop worker or betting worker if—
  - (a) on the day before the relevant commencement date he was employed as a shop worker or a betting worker but not to work only on Sunday,
  - (b) he has been continuously employed during the period beginning with that day and ending with the day which, in relation to the provision concerned, is the appropriate date, and
  - (c) throughout that period, or throughout every part of it during which his relations with his employer were governed by a contract of employment, he was a shop worker or a betting worker.
- (3) This subsection applies to any shop worker or betting worker whose contract of employment is such that under it he—
  - (a) is not, and may not be, required to work on Sunday, and
  - (b) could not be so required even if the provisions of this Part were disregarded.
- (4) Where on the day before the relevant commencement date an employee’s relations with his employer had ceased to be governed by a contract of employment, he shall be regarded as satisfying subsection (2)(a) if—
  - (a) that day fell in a week which counts as a period of employment with that employer under section 212(2) or (3) or under regulations under section 219, and

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**Changes to legislation:** *Employment Rights Act 1996, Section 36 is up to date with all changes known to be in force on or before 09 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (b) on the last day before the relevant commencement date on which his relations with his employer were governed by a contract of employment, the employee was employed as a shop worker or a betting worker but not to work only on Sunday.
- (5) A shop worker is not a protected shop worker, and a betting worker is not a protected betting worker, if—
- (a) he has given his employer an opting-in notice on or after the relevant commencement date, and
- (b) after giving the notice, he has expressly agreed with his employer to do shop work, or betting work, on Sunday or on a particular Sunday.
- (6) In this Act “opting-in notice”, in relation to a shop worker or a betting worker, means written notice, signed and dated by the shop worker or betting worker, in which the shop worker or betting worker expressly states that he wishes to work on Sunday or that he does not object to Sunday working.
- (7) [<sup>F1</sup>Subject to subsection (8),] in this Act “the relevant commencement date” means—
- (a) in relation to a shop worker, 26th August 1994, and
- (b) in relation to a betting worker, 3rd January 1995.
- [<sup>F2</sup>(8) In any provision of this Act which applies to Scotland by virtue of section 1(5) of the Sunday Working (Scotland) Act 2003 (extension to Scotland of provisions which refer to shop workers and betting workers), “the relevant commencement date” means, in relation to Scotland, the date on which that section came into force. ]

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**Extent Information**

- E1** S. 36, which previously extended to England and Wales only, extends to England and Wales and Scotland from 6.4.2004 by virtue of the amendment to s. 244(2) by [Sunday Working \(Scotland\) Act 2003 \(c. 18\)](#), **ss. 1(5)**, 3; S.I. 2004/958, **art. 2**

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**Textual Amendments**

- F1** Words in s. 36(7) inserted (6.4.2004) by [Sunday Working \(Scotland\) Act 2003 \(c. 18\)](#), **s. 1(2)(a)**; S.I. 2004/958, **art. 2**
- F2** S. 36(8) added (6.4.2004) by [Sunday Working \(Scotland\) Act 2003 \(c. 18\)](#), **s. 1(2)(b)**; S.I. 2004/958, **art. 2**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 8 Ch. 5 inserted by [2023 c. 20 Sch. para. 2](#)
- Pt. 8A Ch. 1 heading inserted by [2023 c. 46 s. 1\(3\)](#)
- Pt. 8A Ch. 2 inserted by [2023 c. 46 s. 1\(4\)](#)
- Pt. 8A Ch. 3 inserted by [2023 c. 46 s. 2](#)
- Pt. 8A Ch. 4 inserted by [2023 c. 46 s. 3\(2\)](#)
- s. 43K(1)(ca) and word omitted by [2013 c. 24 s. 20\(5\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 43K(2)(ba) omitted by [2013 c. 24 s. 20\(6\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 47C(2)(cc) inserted by [2023 c. 20 Sch. para. 22](#)
- s. 47H inserted by [2020 c. 7 Sch. 7 para. 9](#)
- s. 47AA inserted by [2008 c. 25 s. 37](#)
- s. 47EA inserted by [2023 c. 46 Sch. para. 4](#)
- s. 47EB inserted by [2023 c. 46 Sch. para. 5](#)
- s. 48(1C) inserted by [2020 c. 7 Sch. 7 para. 10\(a\)](#)
- s. 48(1C) inserted by [2023 c. 46 Sch. para. 6\(2\)](#)
- s. 48(1D) inserted by [2023 c. 46 Sch. para. 6\(3\)](#)
- s. 49(8) inserted by [2020 c. 7 Sch. 7 para. 11\(b\)](#)
- s. 49(8) inserted by [2023 c. 46 Sch. para. 7\(4\)](#)
- s. 49C inserted by [2017 c. 16 s. 32\(4\)](#)
- s. 75I(3)(g) and word inserted by [2023 c. 20 Sch. para. 23\(b\)](#)
- s. 80A(6A) inserted by [2024 c. 17 s. 1\(2\)](#)
- s. 80B(6C) inserted by [2024 c. 17 s. 1\(3\)](#)
- s. 80C(2)(bc) inserted by [2023 c. 20 Sch. para. 24\(2\)](#)
- s. 80C(4)(bc) inserted by [2023 c. 20 Sch. para. 24\(3\)](#)
- s. 80D(1A) inserted by [2024 c. 17 s. 1\(4\)\(a\)](#)
- s. 80D(3) inserted by [2024 c. 17 s. 1\(4\)\(c\)](#)
- s. 80EB(2)(f) and word inserted by [2023 c. 20 Sch. para. 25\(b\)](#)
- s. 99(3)(cc) inserted by [2023 c. 20 Sch. para. 28](#)
- s. 101B inserted by [2008 c. 25 s. 38](#)
- s. 104H inserted by [2020 c. 7 Sch. 7 para. 14](#)
- s. 104CA inserted by [2023 c. 46 Sch. para. 9](#)
- s. 105(4B) inserted by [2008 c. 25 s. 39\(3\)](#)
- s. 105(7BC) inserted by [2020 c. 7 Sch. 7 para. 15](#)
- s. 105(7BAA) inserted by [2023 c. 46 Sch. para. 10](#)
- s. 108(3)(gia) inserted by [2023 c. 46 Sch. para. 11](#)
- s. 108(3)(de) inserted by [2008 c. 25 s. 39\(4\)](#)
- s. 108(3)(gn) inserted by [2020 c. 7 Sch. 7 para. 16](#)
- s. 110(3A) inserted by [2002 c. 22 s. 44](#)
- s. 205A(2)(ba) inserted by [2023 c. 46 Sch. para. 16\(2\)](#)
- s. 205A(8A) inserted by [2023 c. 46 Sch. para. 16\(3\)](#)
- s. 225(7)(8) inserted by [2023 c. 46 Sch. para. 17](#)

– s. 227(1)(zb)(zc) inserted by [2023 c. 46 Sch. para. 18](#)