SCHEDULES

[F1SCHEDULE 8A

RIGHTS OF BETTING WORKERS AS RESPECTS SUNDAY WORKING

F1 2004 NI 1

Right not to suffer detriment for refusing Sunday work

10.—(1) An employee who is a protected betting worker or an opted-out betting worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the employee refused (or proposed to refuse) to do betting work on Sunday or on a particular Sunday.

(2) Sub-paragraph (1) does not apply to anything done in relation to an opted-out betting worker on the ground that he refused (or proposed to refuse) to do betting work on any Sunday or Sundays falling before the end of the notice period.

(3) An employee who is a betting worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the employee gave (or proposed to give) an opting-out notice to his employer.

(4) Sub-paragraphs (1) and (3) do not apply where the detriment in question amounts to dismissal (within the meaning of Part XI of the Employment Rights Order).

(5) For the purposes of this paragraph a betting worker who does not work on Sunday or on a particular Sunday is not to be regarded as having been subjected to any detriment by—

(a) a failure to pay remuneration in respect of betting work on a Sunday which he has not done;

(b) a failure to provide him with any other benefit, where that failure results from the application (in relation to a Sunday on which the employee has not done betting work) of a contractual term under which the extent of that benefit varies according to the number of hours worked by the employee or the remuneration of the employee; or

(c) a failure to provide him with any work, remuneration or other benefit which by virtue of paragraph 4 or 5 the employer is not obliged to provide.

(6) Where an employer offers to pay a sum specified in the offer to any one or more employees—

(a) who are protected betting workers or opted-out betting workers; or

(b) who under their contracts of employment are not obliged to do betting work on Sunday,

if they agree to do betting work on Sunday or on a particular Sunday sub-paragraphs (7) and (8) apply.

(7) An employee to whom the offer is not made is not to be regarded for the purposes of this paragraph as having been subjected to any detriment by any failure to make the offer to him or to pay him the sum specified in the offer.

(8) An employee who does not accept the offer is not to be regarded for the purposes of this paragraph as having been subjected to any detriment by any failure to pay him the sum specified in the offer.

(9) For the purposes of paragraph 2(2)(b) or 7(1)(b), the appropriate date in relation to this paragraph is the date of the act or failure to act.

(10) For the purposes of sub-paragraph (9)—

(a) where an act extends over a period, the "date of the act" means the first day of that period; and

(b) a deliberate failure to act shall be treated as done when it was decided on;

and, in the absence of evidence establishing the contrary, an employer shall be taken to decide on a failure to act when he does an act inconsistent with doing the failed act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.

(11) Articles 71 and 72 of the Employment Rights Order (which relate to proceedings brought by an employee or, as the case may be, worker on the ground that he has been subjected to a detriment in contravention of Article 68, 69, 70, 70A, 70B, 70C or 70D of that Order) shall have effect as if the reference in Article 71 to those Articles included a reference to this paragraph.

(12) Article 20 of the Industrial Tribunals (Northern Ireland) Order 1996 (NI 18) (conciliation) has effect in relation to industrial tribunal proceedings, or claims which could be the subject of tribunal proceedings, arising out of a contravention or alleged contravention of this paragraph.

(13) The remedy of an employee for infringement of the right conferred by this paragraph is by way of proceedings as mentioned in sub-paragraph (11) and not otherwise.

(14) Articles 248 and 249 of the Employment Rights Order (death of employee or employer) apply in relation to this paragraph as they apply in relation to provisions of the Employment Rights Order listed in Article 248(2) of that Order.**]**

Changes to legislation:
The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985, Right not to suffer detriment for refusing Sunday work is up to date with all changes known to be in force on or before 17 July 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.
View outstanding changes

Changes and effects yet to be applied to :

– Instrument applied by 1997 c. 16 s.15(3)

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

– Act applied by 1997 c. 16 s.15(3)

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

– art. 172A and cross-heading inserted by 2022 c. 14 (N.I.) s. 15(1)
– art. 186(3A) inserted by 2022 c. 14 (N.I.) s. 15(2)(a)