

31st October 2012

STATES OF DELIBERATION

Billet d'État No. XXIV

AMENDMENT

Proposed by: Deputy K Stewart
Seconded by: Deputy A Brouard

Requête

Sunday Trading

In Proposition 1 –

- (i) to delete the date “1st December 2012.” and to substitute the date “1st March 2013” and
- (ii) after the substituted date, “1st March 2013”, to insert the words “and to provide that any Sunday opening licences granted under that Ordinance which are due to expire on 31st December 2012, shall remain valid until 28th February , 2013.”

Explanatory Note

Under the Employment Protection (Guernsey) Law, 1998, as amended by the Employment Protection (Sunday Shop Working) (Guernsey) Law, 2001 a shop worker who, under his or her contract of employment is, or may be, required to work on a Sunday (provided they are not employed to work only on Sundays) has the right at any time to give their employer notice that they object to Sunday working (an ‘opting-out’ notice). They then have the right not to work on Sundays once three months have passed and will be protected as an ‘opted out’ shop worker.

These rights apply irrespective of age, length of service or hours of work. During the 3 month notice period the shop workers noted above still have to do the Sunday work required under their employment contracts, if their employer wants them to, but they may not be dismissed or subjected to any other detriment by their employer, for giving an ‘opting-out notice’. In addition, 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 that, under their contract, he or she may be required to work on a Sunday (provided they are not employed to work only on Sundays). 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 usual three month period.

If the Sunday Trading Requête is approved in its current form then those shop workers who might wish to opt out of Sunday working will not have time to give three months notice of their wish to opt-out before the 1st December 2012. Under this amendment, by delaying the trial period proposed under the Requête until 1st March 2013, shop workers who are not already automatically protected by the provisions of the Employment Protection (Guernsey) Law, 1998 will have an appropriate period of time within which to decide whether they wish to opt out of working on Sundays and employers will have adequate time to give those shop workers relevant notice of Sunday work.

In addition, because the Constables and Douzaines of the relevant parishes have already granted Sunday opening licences to certain shops this year, this amendment will enable those licences, which would normally expire on 31st December 2012, to remain valid until 28th February 2013, which is intended to ease any administrative problems that may otherwise arise.

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STATES OF DELIBERATION

Billet d'État No. XXIV

AMENDMENT

Proposed by: Deputy M Hadley
Seconded by: Deputy J Kuttelwascher

Requête

Sunday Trading

After Proposition 2 to insert a further Proposition as follows –

“3. To direct the preparation of such legislation as may be necessary to amend the provisions of Part IIA of the Employment Protection (Guernsey) Law, 1998 (“Protection for Sunday Shop Workers”) to enable employees to seek the protection available under that Part of the Law in an appropriate and timely manner during the course of the trial period proposed in Proposition 1 and, in particular, so as –

- (i) to substitute the period of “two weeks” for “three months” wherever appearing in sections 15F(3), 15G(2) and 15G(4) of that Law,
- (ii) to substitute the period of “one week” for “one month” where it is referred to in section 15G(2) of that Law and
- (iii) to substitute the period of “one week” for “two months” where it is referred to in section 15G(1) of that Law, and
- (iv) to make such other temporary supplemental and incidental provision as may be appropriate.”

Explanatory Note

Under the Employment Protection (Guernsey) Law, 1998, as amended by the Employment Protection (Sunday Shop Working) (Guernsey) Law, 2001 a shop worker who, under his or her contract of employment is, or may be, required to work on a Sunday (provided they are not employed to work only on Sundays) has the right at any time to give their employer notice that they object to Sunday working (an ‘opting-out’ notice). They then have the right not to work on Sundays once three months have passed after which time they will be protected as an ‘opted out’ shop worker.

These rights apply irrespective of age, length of service or hours of work. During the 3 month notice period the shop workers noted above still have to do the Sunday work required under their employment contracts, if their employer wants them to, but they may not be dismissed or subjected to any other detriment by their employer, for giving an 'opting-out notice'. In addition, 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 2 months of the date that, under their contract, he or she may be required to work on a Sunday (provided they are not employed to work only on Sundays). 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 usual three month period.

Should the Sunday Trading Requête be successful, in order to ensure that shop workers (who are not already automatically protected) who might wish to 'opt out' of Sunday working can do so before the 1st December 2012, it is proposed that the respective notice periods referred to above be shortened: from three months, to two weeks (for the opting-out notice); from one month to one week (for the employer to give a written statement explaining the right to opt out) and from two months to one week (for the opting-out notice where the employer has failed to give that statement).

In short, by reducing the required notice periods during the trial period of suspension of the Sunday Trading Ordinance, it is intended that protection under the Employment Protection Law will continue to be available for employees in an appropriate manner and so as to coincide with the duration of the trial period.

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