



<b>Subject:</b>	Designation of Belfast district (or the city centre) as a 'holiday resort' providing large shops with an option to extend Sunday trading hours between the months of March and October
<b>Date:</b>	20 April 2018
<b>Reporting Officer</b>	Suzanne Wylie, Chief Executive
<b>Contact Officers:</b>	John Walsh, City Solicitor

**Restricted Reports**

Is this report restricted?

Yes

☐

No

☒

If Yes, when will the report become unrestricted?

After Committee Decision

After Council Decision

Some time in the future

Never


**Call-in**

Is the decision eligible for Call-in?

Yes

☒

No

☐

**1.0 PURPOSE OF THE REPORT**

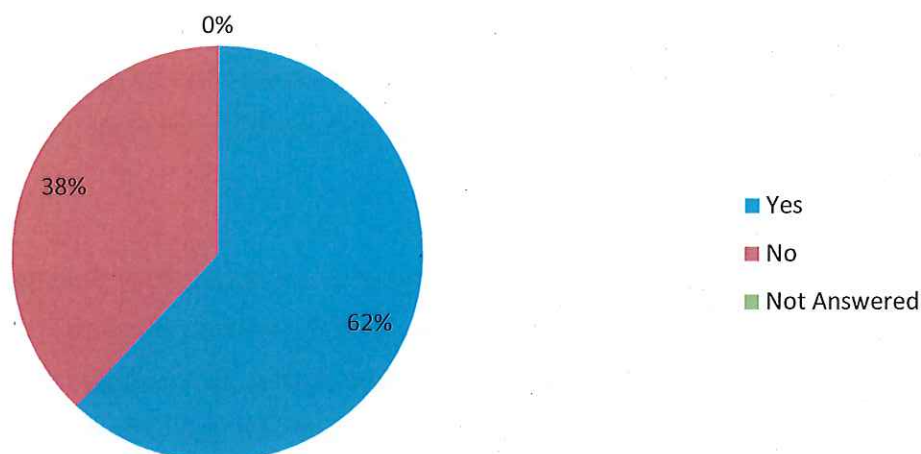
- 1.1 The purpose of this report is to:
- update the Strategic Policy and Resources Committee on the updated findings from the public consultation as to whether Belfast City Council should designate the Belfast district (or the city centre) as a 'holiday resort' under Article 6 of the Shops (Sunday Trading &c.) (Northern Ireland) Order 1997
  - to seek a decision from Members on whether to proceed with a 'holiday resort' designation
- The effect of such a designation would be to provide large shops with an option to extend their Sunday trading hours in the city centre on up to 18 Sundays (other than Easter Sunday) between 1 March and 30 September in any calendar year.
- Such a designation may not come into effect until at least one month after the resolution of the Council.

1.2	<p><b><u>Deputations</u></b></p> <p>Members will wish to note that officers have received requests from both the Union of Shop, Distributive and Allied Workers (Usdaw) and the Belfast Chamber of Trade and Commerce to give short presentations to the Committee on this issue. It will be a matter for the Committee to decide at the start of the meeting whether or not to receive the deputations from the aforementioned organisations (or indeed any other organisation who may make a similar request prior to the meeting).</p>
2.0	<p><b>RECOMMENDATIONS</b></p>
2.1	<p>The Committee is asked to:</p> <ul style="list-style-type: none"> <li>(i) advise whether to receive the deputations indicated at para 1.2</li> <li>(ii) note the contents of the report including the findings from the original public consultation which concluded on 5 May 2017 and the supplementary public consultation which ended on 2 April 2018.</li> <li>(iii) make a decision as to whether to provide approval for the Council to make a 'holiday resort' designation under Article 6 of the Shops (Sunday Trading &amp;c.) (Northern Ireland) Order 1997</li> <li>(iv) if it is decided to make a designation, to then decide as to whether to apply the designation to either: <ul style="list-style-type: none"> <li>a) the entire Belfast City Council district area, or</li> <li>b) Belfast City Centre only (based on the BMAP definition of the city centre in Appendix 2).</li> </ul> </li> </ul>
3.0	<p><b>MAIN REPORT</b></p>
3.1	<p><b><u>Background</u></b></p> <p>The initial proposal was made in response to a strong lobby within the city to designate Belfast as a 'holiday resort' area in order to improve the tourism offering in Belfast (particularly on a Sunday morning), to boost the local economy and to support the overall regeneration of the city centre. The principle of additional Sunday opening hours for large shops in 'holiday resort' areas was established under Article 6 of the Shops (Sunday Trading &amp;c.) (Northern Ireland) Order 1997 (copy attached at Appendix 1).</p> <p>Article 6 was included in the 1997 Order as an additional exemption to allow large shops in tourist areas to avail of the additional tourist trade over the summer months. A number of councils in Northern Ireland have by resolution of the council designated cities and towns which receive tourists as holiday resorts including:</p> <ul style="list-style-type: none"> <li>- Derry-Londonderry (Derry City and Strabane District Council)</li> <li>- Newry (Newry, Mourne and Down District Council)</li> <li>- Kilkeel (Newry, Mourne and Down District Council)</li> <li>- Portrush (Causeway Coast and Glens Borough Council)</li> <li>- Portstewart (Causeway Coast and Glens Borough Council)</li> <li>- Ballycastle (Causeway Coast and Glens Borough Council)</li> </ul>



	<p>Belfast, as a growing tourist destination in both Northern Ireland and wider afield may similarly wish to avail of this exemption.</p> <p>It is important to note that any decision to designate as a holiday resort will not result in any change in existing legislation or further 'deregulation' of Sunday trading law.</p> <p><b>Requirement to consult</b></p> <p>Any designation as a 'holiday resort' must be done by resolution of the Council. The legislation states that before making a designation the Council must first consult persons likely to be affected by the proposed designation.</p> <p><b>Previous Consultation 2017</b></p> <p>The Council consulted widely on this issue during 2017 finding that of the total 2471 people and organisations who responded some 1531 answered yes (62%) and 934 answered no (38%) as to whether the council should designate Belfast as a holiday resort. At its meeting on 19 May 2017, the Strategic Policy and Resources Committee decided not to designate Belfast as a 'holiday resort'.</p> <p><b>Supplementary Consultation 2018</b></p> <p>At its meeting on 16 February 2018, the Strategic Policy and Resources Committee agreed that the Council undertake an additional 6-week consultation between 19 February and 02 April 2018 on the key questions. The purpose of this supplementary consultation was to allow consultees to further contribute to the existing evidence base and to provide Members with up to date information upon which to make any decision to designate Belfast as a holiday resort or otherwise.</p>
3.2	<p><b>Responses to the 2017 Consultation</b></p> <p>A total of 2471 people responded to the initial consultation in 2017. A summary of the responses to the three main questions are included below.</p> <p><b>1. Should Belfast be designated as a holiday resort in order to provide large shops with the option to extend Sunday trading hours?</b></p> <ul style="list-style-type: none"> <li>• 1531 answered yes (62%)</li> <li>• 934 answered no (38%)</li> </ul>

**2017 ALL RESPONSES - Should Belfast be designated as a holiday resort in order to provide large shops with the option to extend Sunday trading hours?**



**2. What area should the designation apply to? (Citizen space responses only)**

Of the 2471 responses received, 1689 answered this question:

- 1398 indicated all of the Belfast City Council area (82.8%)
- 291 indicated Belfast City Centre only (17.2%)

**3. Do you think Belfast would be more attractive as a tourist and/or shopping and leisure destination if the restrictions on Sunday opening times for larger shops were removed?**

Of the 2471 responses received, 1816 answered this question:

- 1515 agreed with this statement (83.4%)
- 294 disagreed with the statement (16.2%)
- 7 did not know (0.4%)

3.3

**Responses to the 2018 Consultation**

In total, **5196** people and organisations responded to the supplementary consultation.

Some **2092** responses were collected via Citizen Space (the council's online consultation tool), with the remaining **3104** responses being comprised mainly of hard copy surveys (**1695**), survey postcards (**1369**) written correspondence (**22**) and emails (**18**).

**1. Should Belfast be designated as a holiday resort in order to provide large shops with the option to extend Sunday trading hours?**

- 2528 answered yes (48.7%)
- 2635 answered no (50.7%)
- 33 did not answer



### Analysis of overall findings (2017 and 2018 combined)

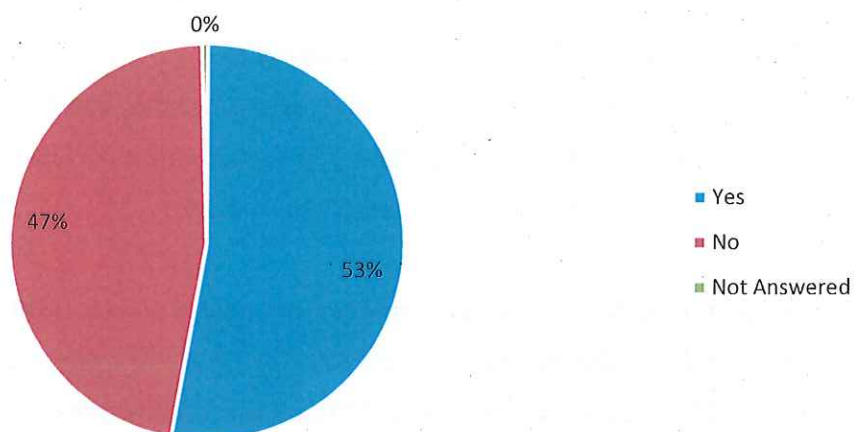
Taking the initial consultation and the supplementary consultation together, some **7667** people and organisations responded to the consultation in total.

With regards to the priority question in the consultation –

#### 1. Should Belfast be designated as a holiday resort in order to provide large shops with the option to extend Sunday trading hours?

- 4049 answered yes (52.8%)
- 3583 answered no (46.7%)
- 35 did not answer

COMBINED - Should Belfast be designated as a holiday resort in order to provide large shops with the option to extend Sunday trading hours?



#### 2. What area should the designation apply to?

Of the 7667 responses received, 4363 answered this question:

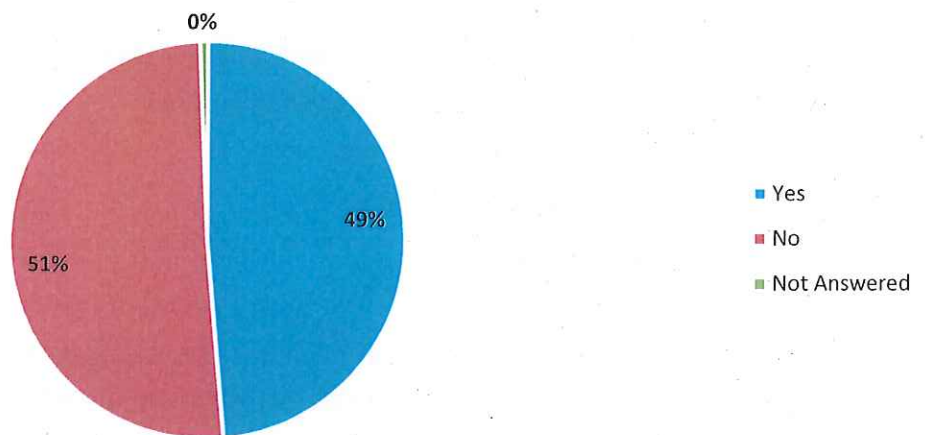
- 3742 indicated all of the Belfast City Council area (85.8%)
- 621 indicated Belfast City Centre only (14.2%)

#### 3. Do you think Belfast would be more attractive as a tourist and/or shopping and leisure destination if the restrictions on Sunday opening times for larger shops were removed?

Of the 7667 responses received, 5584 answered this question:

- 4013 agreed with this statement (71.9%)
- 1507 disagreed with the statement (27%)
- 64 did not know (1.1%)

**2018 ALL RESPONSES - Should Belfast be designated as a holiday resort in order to provide large shops with the option to extend Sunday trading hours?**



**2. What area should the designation apply to?**

Of the 5196 responses received, 2674 answered this question:

- 2344 indicated all of the Belfast City Council area (87.7%)
- 330 indicated Belfast City Centre only (12.3%)

**3. Do you think Belfast would be more attractive as a tourist and/or shopping and leisure destination if the restrictions on Sunday opening times for larger shops were removed?**

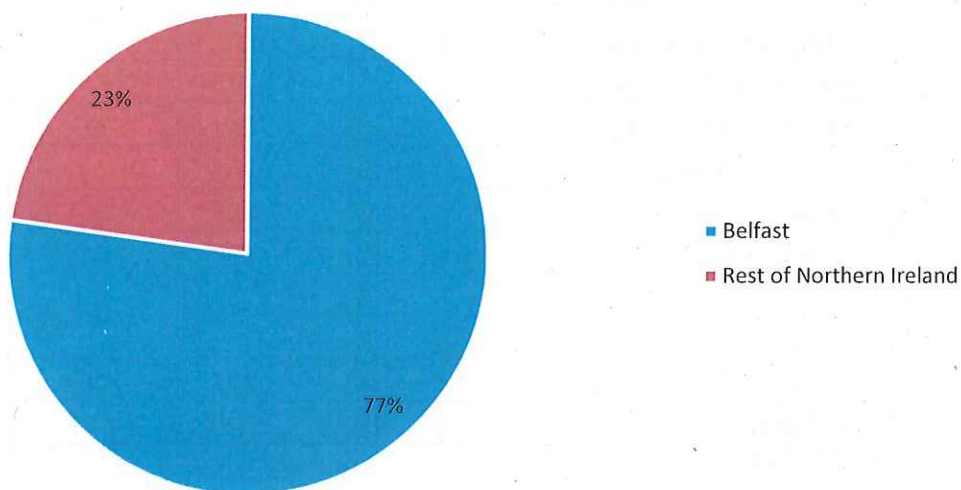
Of the 5196 responses received, 3768 answered this question:

- 2498 agreed with this statement (66.3%)
- 1213 disagreed with the statement (32.2%)
- 57 did not know (1.5%)

**Postcode Analysis (2017 and 2018 Combined)**

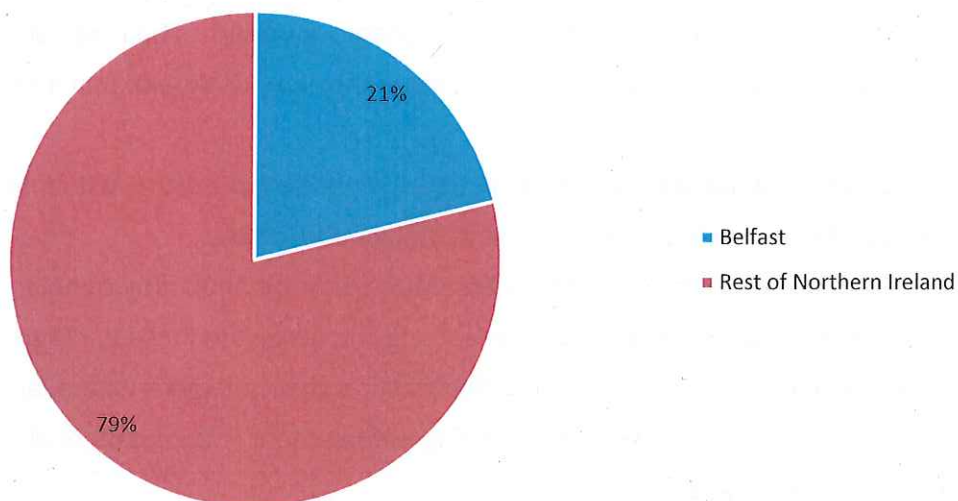
An analysis of the postcodes of the respondents (7667 responses received, 7196 answered this question) who provided this information reveals that of approx. 80% of the “yes” responses were from postcodes within the Belfast District.

COMBINED - Yes responses to designation by location



Similarly, approx. 80% of the “no” responses were from outside Belfast.

COMBINED - No responses to designation by location





<b>Respondents location</b>	<b>Yes</b>	<b>No</b>	<b>Not answered</b>	<b>Total</b>	<b>% Total</b>
Antrim and Newtownabbey	191	197		388	5.1%
Ards and North Down	108	235	4	347	4.5%
Armagh City, Banbridge and Craigavon	45	260		305	4.0%
<b>Belfast</b>	<b>2476</b>	<b>594</b>	<b>11</b>	<b>3081</b>	<b>40.2%</b>
Causeway Coast and Glens	12	141	1	154	2.0%
Derry City and Strabane	3	70		73	1.0%
Fermanagh and Omagh	8	245		253	3.3%
Lisburn and Castlereagh	238	281	6	525	6.8%
Mid and East Antrim	50	283		333	4.3%
Mid Ulster	14	368	4	386	5.0%
Newry, Mourne and Down	62	127		189	2.5%
UK	12	1		13	0.2%
International	3	1		4	0.1%
Council Area/ Location Unknown	840	331	445	1616	21.1%
<b>Grand Total</b>	<b>4062</b>	<b>3134</b>	<b>471</b>	<b>7667</b>	<b>100.0%</b>

- 3.6 **NEXT STEPS**
- Making the Designation**
- Should the Council decide to make the designation, they must do so by resolution of the Council and the designation cannot take effect until at least one month after the date on which the resolution is passed.
- Therefore, if the council made a resolution at the 1 May Council meeting then the designation could not take effect until 1 June 2018.
- 3.8 **How would the Exemption be Applied**
- To make use of the exemption, the occupier or proposed occupier of a large shop must notify the local District Council of the dates of the Sundays involved. The notification does not take effect until 14 days from the date it is given, unless the Council agrees that it should come into effect earlier.
- A Council must maintain a register of shops in its district making use of this exemption and make the register available to the public at all reasonable times.
- The Council may not dictate which Sunday's the large shop may open on (within the designated dates) nor the opening or closing times. Having made the 'holiday resort' designation the council's role according to the legislation will be keep a register of the large shops making use of the exemption in addition to their existing enforcement role in respect of Sunday trading.
- 3.9 **A co-ordinated approach**
- If the Council decides to proceed with the designation, the Council will work with key partners including the Belfast Chamber of Trade and Commerce, Belfast One and Visit Belfast to ensure

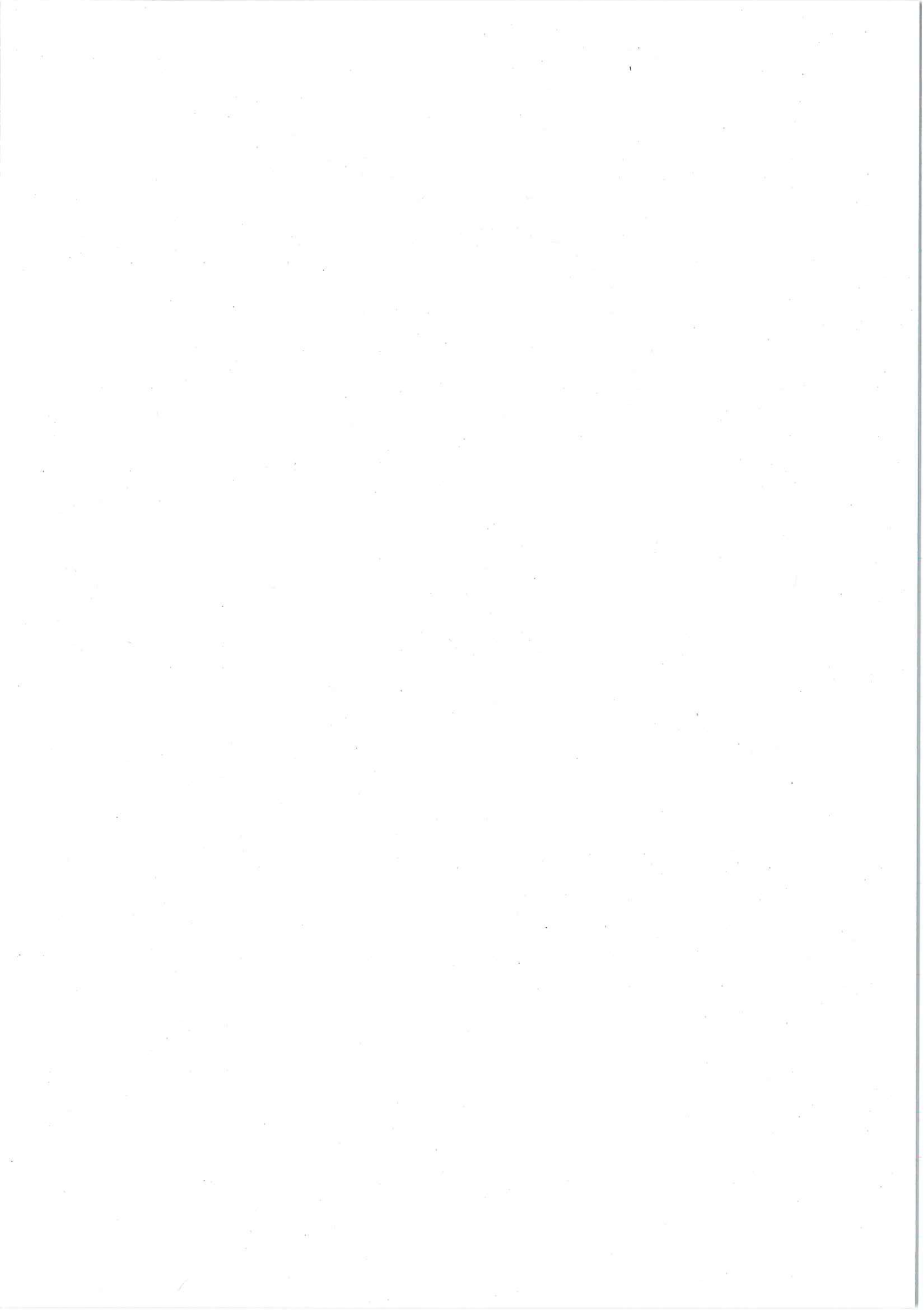
	<p>the effective promotion of the additional hours and to consider the potential impact on city animation due to the additional visitors to the city on that day.</p> <p>For example, if a major event is taking place in the city over a particular weekend during the summer months, the Council would aim to ensure that the event would be promoted alongside a programme of supporting activities. The city would effectively be 'open for business' across the entire weekend thereby maximising the tourism offering in the city and providing the option for both small and large retail stores to avail of the additional visitors into the city whilst the event is taking place. Likewise, the retail and business partners have been working on the proposals for increased marketing and promotion in order to raise awareness of the change in opening hours, if agreed. It is likely that the majority of retailers will want to open from 11am. The closing hours are likely to remain unchanged.</p>
3.10	<p><b>Employment provisions</b></p> <p>Concerns about the impact of additional Sunday trading on the rights of shop workers was a major issue during the drafting of the original legislation in 1997. To counter these concerns Article 11 and Schedule 2 of the Shops (Sunday Trading &amp;c.) (Northern Ireland) Order 1997 was included to provide employment rights for shop workers, except those contracted to work only on Sundays. They aim to ensure that shop workers are not compelled to work on Sundays against their wishes. The rights apply irrespective of age, length of service or hours of work.</p> <p>The Schedule provides that dismissal of a shop worker (including dismissal for reasons of redundancy) is unfair if the reason for it was the worker's refusal to work on Sundays. It also provides the right not to suffer any other detriment (such as denial of normal promotion or training opportunities, or refusal to pay seniority bonuses etc.) for refusing to work on Sundays. All shop workers who enter into a contract of employment requiring Sunday working are able to 'opt out' of Sunday working subject to giving the employer three months' notice. Enforcement of the employment rights is by way of complaint to an industrial tribunal.</p> <p><b>Charter on extended working hours</b></p> <p>Before any designation is made the Council will seek assurances from the various retail representative groupings including the Belfast Chamber and Retail NI that their Members (including all large shops wishing to avail of the extended opening hours) are fully aware of their obligations under the legislation to protect the rights of workers. This assurance could take the form of an agreed Charter which all large shops planning on operating extended working hours on designated Sunday's would sign up to.</p>
3.11	<p><b>Review of Holiday Resort Designation</b></p> <p>It is proposed that any decision to designate Belfast (or the City Centre) as a 'holiday resort' will be subject to a full review at the end of the designated 'holiday resort' period.</p>



	<p>To inform such a review the Council will carry out continuous monitoring and evaluation throughout the designation period with a view to bringing a report back to Members in April 2019 outlining the impact that the designation has had over the holiday period.</p>
3.12	<p><b>FINANCIAL AND RESOURCE IMPLICATIONS</b></p> <p>There will be financial and resource implications for both the Development Department and the Planning and Place Department should the Council designate the council area as a holiday resort under Article 6 of the 1997 Order.</p> <p>The Building Control Service currently perform the enforcement role in relation to Sunday trading under the 1997 Order and the designation of the Belfast district as a 'holiday resort' would require an additional level of resource to manage the registration of participating shops and enforcement of same.</p> <p>The Development Department may need to consider how existing resources are re-focused to promote change in opening hours. This may include additional city animation or promotional activities. There may also be a request for additional financial support to supplement planned marketing activity. This will have to be found from existing resources.</p>
3.13	<p><b>EQUALITY OR GOOD RELATIONS IMPLICATIONS</b></p> <p>A draft Equality Screening exercise was undertaken. Information elicited from the first consultation was used to inform and update the Equality Screening document.</p> <p>The Equality Screening document was shared with respondents to the online survey and hard copy questionnaire survey to help elicit their views. As part of the consultation, respondents were asked if they were aware of any equality and / or good relations implications that should be considered around potentially extending Sunday trading.</p> <p>There were 144 responses made to this question via the online consultation and in hard copy questionnaire format. Some respondents made more than one point. For comparison purposes to the previous consultation, the same thematic areas were applied. Respondents said:</p> <ol style="list-style-type: none"> <li>1. Some people can't work on a Sunday due to religious commitments /going to church/family commitments but will feel obliged/pressured to do so if changes are implemented. (44)</li> <li>2. Extended Sunday opening during the summer will provide economic opportunities and conveys a positive cosmopolitan image to visitors/tourists. (17)</li> <li>3. If implemented, extending Sunday trading hours during summer months will provide additional choice for residents and tourists that want to shop on Sundays, for businesses that wish to open and people that want to work on Sundays. (2)</li> <li>4. Religious beliefs/current laws should not restrict those who wish to shop on a Sunday (1)</li> <li>5. Family life will be affected if Sunday trading is implemented. There will be a negative impact on retail workers who are carers/have children. (51)</li> <li>6. Extended Sunday trading conflicts with personal Christian religious views/faith beliefs (70)</li> </ol>



	Information elicited from the consultation will be used to inform and update the Equality Screening document in line with members' decision.
<b>4.0</b>	<b>Documents attached</b>
	Appendix 1 – Shops (Sunday Trading &c.) (Northern Ireland) Order 1997 Appendix 2 – BMAP definition of city centre area Appendix 3 – list of those organisations making written submissions



---

STATUTORY INSTRUMENTS

---

**1997 No. 2779 (N.I. 20)**

**NORTHERN IRELAND**

**The Shops (Sunday Trading &c.) (Northern Ireland) Order 1997**

*Made* - - - - 26th November 1997

*Coming into operation* 4th December 1997

At the Court at Buckingham Palace, the 26th day of November 1997

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Introductory*

**Title and commencement**

1. This Order may be cited as the Shops (Sunday Trading &c.) (Northern Ireland) Order 1997 and shall come into operation on the expiration of 7 days from the day on which it is made.

**Interpretation**

2.—(1) Subject to Article 9(2), the Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the commencement date” means the day on which this Order comes into operation;

“the Department” means the Department of Health and Social Services;

“intoxicating liquor” has the same meaning as in the Licensing (Northern Ireland) Order 1996;

“large shop” means a shop which has a relevant floor area exceeding 280 square metres;

“relevant floor area”, in relation to a shop, means the internal floor area of so much of the shop as consists of or is comprised in a building, but excluding any part of the shop which,



throughout the week ending with the Sunday in question, is used neither for the serving of customers in connection with the sale of goods nor for the display of goods;

“retail customer” means a person who purchases goods retail;

“retail sale” means any sale other than a sale for use or resale in the course of a trade or business, and references to retail purchase shall be construed accordingly;

“sale of goods” does not include—

- (a) the sale of meals, refreshments or intoxicating liquor for consumption on the premises on which they are sold; or
- (b) the sale of meals or refreshments prepared to order for immediate consumption off those premises;

“shop” (except in Schedule 2) means any premises where there is carried on a trade or business consisting wholly or mainly of the sale of goods.

#### *Opening of large shops on Sunday*

#### **Large shops not to open on Sunday except in accordance with Articles 4,5 and 6**

3.—(1) Subject to Articles 4, 5 and 6, a large shop shall not be open on Sunday for the serving of retail customers.

(2) If paragraph (1) is contravened in relation to a shop, the occupier of the shop shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50,000.

(3) Where a person is charged with having contravened paragraph (1), in relation to a large shop which was permitted by virtue of the exemption conferred by paragraph (1) of Article 5 to be open for the serving of retail customers on the Sunday in question during the hours mentioned in that paragraph, by reason of his having served a retail customer after the end of those hours, it shall be a defence to prove that the customer was in the shop before that time and left not later than half an hour after that time.

#### **Exemption for certain kinds of large shop**

4.—(1) Article 3(1) does not apply in relation to—

- (a) any shop which is at a farm and where the trade or business carried on consists wholly or mainly of the sale of produce from that farm;
- (b) any shop where the trade or business carried on consists wholly or mainly of the sale of intoxicating liquor;
- (c) any shop where the trade or business carried on consists wholly or mainly of the sale of any one or more of the following—
  - (i) motor supplies and accessories; and
  - (ii) cycle supplies and accessories;
- (d) any shop which—
  - (i) is a registered pharmacy; and
  - (ii) is not open for the retail sale of any goods other than medicinal products and medical and surgical appliances;
- (e) any shop which—
  - (i) is at an airport; and

- (ii) is situated in a part of the airport ordinarily used by persons travelling by air to or from the airport;
  - (f) any shop in a railway station or bus station;
  - (g) any shop at a service area within the meaning of the Roads (Northern Ireland) Order 1993;
  - (h) any petrol filling station;
  - (i) any shop which is not open for the retail sale of any goods other than food, stores or other necessities required by any person for a vessel or aircraft on its arrival at, or immediately before its departure from, a port, harbour or airport; and
  - (j) any stand used for the retail sale of goods during the course of an exhibition.
- (2) In determining whether a shop falls within paragraph (1)(a), (b) or (c), regard shall be had to the nature of the trade or business carried on there on weekdays as well as to the nature of the trade or business carried on there on Sunday.
- (3) In this Article—
- “medicinal product” and “registered pharmacy” have the same meaning as in the Medicines Act 1968; and
- “Stand”, in relation to an exhibition, means any platform, structure, space or other area provided for exhibition purposes.

#### **Permitted Sunday opening hours for large shops**

- 5.—(1) Article 3(1) does not apply in relation to a shop during the period between 1 p.m. and 6 p.m. on a Sunday.
- (2) The exemption conferred by paragraph (1) does not apply where the Sunday is Easter Day or Christmas Day.

#### **Additional permitted Sunday opening for large shops in holiday resorts**

- 6.—(1) Where a notice under this Article has effect in relation to a shop, Article 3(1) does not apply in relation to the shop on any Sunday specified in the notice; and any exemption conferred by this paragraph is in addition to (and not in substitution for) the exemption conferred by Article 5(1).
- (2) A person who is, or proposes to become, the occupier of a large shop situated in an area designated under paragraph (9) as a holiday resort may as respects any calendar year give notice to the district council for the district in which the shop is situated specifying (subject to paragraph (3)) the Sundays in that year on which Article 3(1) is not to apply in relation to the shop.
- (3) A notice under this Article shall not specify—
- (a) a Sunday occurring before 1st March or after 30th September in any calendar year;
  - (b) Easter Day; or
  - (c) more than 18 Sundays in any calendar year.
- (4) The occupier of a shop in respect of which notice has been given under this Article may, by a subsequent notice—
- (a) specify (subject to paragraph (3)) Sundays different to those specified in the earlier notice; or
  - (b) cancel the earlier notice.
- (5) A notice under this Article—



- (a) shall not take effect until the end of the period of 14 days beginning with the day on which it is given, unless the district council agrees that it is to take effect at the end of a shorter period;
  - (b) shall cease to have effect when superseded by a subsequent notice as mentioned in paragraph (4)(a) or cancelled as mentioned in paragraph (4)(b).
- (6) Every district council shall keep a register of shops in its district in respect of which a notice under this Article has effect.
- (7) In relation to every such shop, the register shall contain particulars of—
- (a) the name (if any) and address of the shop; and
  - (b) the Sundays specified in the notice under this Article.
- (8) Any register kept under this Article—
- (a) shall be open to inspection by members of the public at all reasonable times; and
  - (b) may be kept by means of a computer.
- (9) For the purposes of this Article, a district council may by resolution—
- (a) designate any area in its district as a holiday resort;
  - (b) revoke any designation made by it under sub-paragraph (a).
- (10) Any resolution passed by a district council under paragraph (9) shall take effect from a date specified in the resolution which must be a date at least one month after the date on which the resolution is passed.
- (11) Before making or revoking any designation under paragraph (9), a district council shall consult persons appearing to the council to be likely to be affected by the proposed designation or revocation (whether as the occupiers of shops or as local residents) or persons appearing to the council to represent such persons.
- (12) Where a district council makes or revokes a designation under paragraph (9), it shall publish notice of the designation or revocation in such manner as it considers appropriate.

#### **Loading and unloading at large shops on Sunday morning**

- 7.—(1) A district council may by resolution designate its district as a loading control district for the purposes of this Article with effect from a date specified in the resolution, which must be a date at least one month after the date on which the resolution is passed.
- (2) A district council may by resolution revoke any designation made by it under this Article.
- (3) Before making or revoking any designation under this Article, a district council shall consult persons appearing to the council to be likely to be affected by the proposed designation or revocation (whether as the occupiers of shops or as local residents) or persons appearing to the council to represent such persons.
- (4) Where a district council makes or revokes a designation under this Article, it shall publish notice of the designation or revocation in such manner as it considers appropriate.
- (5) Schedule 1 (which imposes restrictions on loading and unloading on Sunday before 9 a.m. at large shops in loading control districts) shall have effect.

#### **Enforcement**

- 8.—(1) It shall be the duty of every district council to enforce within its district the preceding provisions of this Order.
- (2) For the purposes of its duty under paragraph (1), a district council shall appoint inspectors.



(3) An inspector appointed by a district council under paragraph (2) shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours—

- (a) to enter any premises within the district of the council, with or without a constable, for the purpose of ascertaining whether there is or has been on the premises any contravention of the preceding provisions of this Order;
- (b) to require the production of, inspect and take copies of any records (in whatever form they are held) relating to any trade or business carried on on the premises which appear to him to be relevant for the purpose mentioned in sub-paragraph (a);
- (c) where those records are kept by means of a computer, to require the records to be produced in a form in which they may be taken away; and
- (d) to take such measurements and photographs as he considers necessary for the purpose mentioned in sub-paragraph (a).

(4) Any person who intentionally obstructs an inspector appointed under paragraph (2) acting in the execution of his duty shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### Offences

9.—(1) Where the commission by any person of an offence under this Order is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person,

(2) For the purposes of this Order, section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words “the liability of whose members is limited” and, where the affairs of a body corporate are managed by its members, applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) In any proceedings for an offence under this Order it shall, subject to paragraph (4), be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(4) If in any case the defence provided by paragraph (3) involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, at least 7 days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

### *Other provisions relating to Sunday trading*

### Construction of certain leases and agreements

10.—(1) Where any lease or agreement (however worded) entered into before the commencement date has the effect of requiring the occupier of a shop to keep the shop open for the serving of retail customers—

- (a) during normal business hours; or
- (b) during hours to be determined otherwise than by or with the consent of the occupier,

that lease or agreement shall not be regarded as requiring, or as enabling any person to require, the occupier to open the shop on Sunday for the serving of retail customers.

(2) Paragraph (1) shall not affect any lease or agreement—

- (a) to the extent that it relates specifically to Sunday and would (apart from this Article) have the effect of requiring Sunday trading of a kind which before the commencement date would have been lawful by virtue of any provision of Part I of the Shops Act (Northern Ireland) 1946; or
- (b) to the extent that it is varied by agreement after the commencement date.

#### **Rights of shop workers as respects Sunday working**

11. Schedule 2 (rights of shop workers as respects Sunday working) shall have effect.

#### **Exclusion of Sunday Observance Act (Ireland) 1695**

12. The Sunday Observance Act (Ireland) 1695 does not apply to any person—
- (a) by reason of his being the occupier of, or a person employed to work in or about, a shop which is open on Sunday for the serving of retail customers; or
  - (b) by reason of his otherwise being, or doing anything, in or about a shop which is open on Sunday for the serving of retail customers.

#### *Repeal of provisions of the Shops Act (Northern Ireland) 1946*

#### **Repeal of provisions of the Shops Act (Northern Ireland) 1946**

13. In the Shops Act (Northern Ireland) 1946 the following provisions, namely—
- (a) sections 1 to 5 (closing hours of shops); and
  - (b) Part II (conditions of employment),
- shall cease to have effect.

#### *Supplementary*

#### **Amendments and repeals**

- 14.—(1) The statutory provisions mentioned in Schedule 3 are hereby repealed to the extent specified in the third column of that Schedule.
- (2) The Department may by order subject to negative resolution—
- (a) repeal any provision of a local Act passed before the commencement date if it appears to the Department that the provision is inconsistent with, or has become unnecessary in consequence of, any provision of this Order; and
  - (b) amend any provision of such a local Act if it appears to the Department that the provision requires amendment in consequence of any provision of this Order or any repeal made by virtue of sub-paragraph (a).
- (3) Before making an order under paragraph (2) repealing or amending any provision of a local Act, the Department shall consult each district council which it considers would be affected by the repeal or amendment of that provision.

N.H. Nicholls  
Clerk of the Privy Council



## SCHEDULES

### SCHEDULE 1

Article 7(5).

#### LOADING AND UNLOADING AT LARGE SHOPS ON SUNDAY MORNING

##### *Shops to which Schedule applies*

1.—(1) Subject to sub-paragraph (2), this Schedule applies to any large shop situated in a district designated as a loading control district under Article 7.

(2) This Schedule does not apply to a shop in relation to which Article 3(1) does not apply by virtue of an exemption conferred by Article 4(1).

##### *Consent required for early Sunday loading and unloading*

2. The occupier of a shop to which this Schedule applies shall not load or unload, or permit any other person to load or unload, goods from a vehicle at the shop before 9 a.m. on Sunday in connection with the trade or business carried on in the shop, unless the loading or unloading is carried on—

- (a) with the consent of the district council for the district in which the shop is situated granted under this Schedule; and
- (b) in accordance with any conditions subject to which that consent is granted.

3.—(1) A consent under this Schedule may be granted subject to such conditions as the district council considers appropriate.

(2) The district council may at any time vary the conditions subject to which a consent is granted, and shall give notice of the variation to the person to whom the consent was granted.

##### *Application for consent*

4. An application for a consent under this Schedule shall be made in writing and shall contain such information as the district council may reasonably require.

5. An applicant for a consent under this Schedule shall pay such reasonable fee in respect of his application as the district council may determine.

6.—(1) Where an application is duly made to the district council for a consent under this Schedule, the council shall grant the consent unless it is satisfied that the loading or unloading of goods from vehicles before 9 a.m. on Sunday at the shop to which the application relates, in connection with the trade or business carried on at the shop, has caused, or would be likely to cause, undue annoyance to local residents.

(2) The council shall determine the application and notify the applicant in writing of its decision within the period of 21 days beginning with the day on which the application is received by the council.

(3) In a case where a consent is granted, the notification under sub-paragraph (2) shall specify the conditions, if any, subject to which the consent is granted.

*Revocation of consent*

## 7. Where—

- (a) the occupier of a shop in respect of which a consent under this Schedule is in force is convicted of an offence under paragraph 9 by reason of his failure to comply with the conditions subject to which the consent was granted; or
- (b) the district council is satisfied that the loading or unloading authorised by virtue of a consent under this Schedule has caused undue annoyance to local residents,

the council may revoke the consent.

*Publication of consent*

8. Where a district council grants a consent under this Schedule, the council may cause a notice giving details of that consent to be published in a local newspaper circulating in its district.

*Offence*

9. A person who contravenes paragraph 2 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## SCHEDULE 2

Article 11

## RIGHTS OF SHOP WORKERS AS RESPECTS SUNDAY WORKING

*Interpretation*

1.—(1) In this Schedule “shop worker” means an employee who, under his contract of employment, is or may be required to do shop work.

(2) In this Schedule “shop work” means work in or about a shop on a day on which the shop is open for the serving of customers.

(3) Subject to sub-paragraph (4), in this Schedule “shop” includes any premises where any retail trade or business is carried on.

(4) Where premises are used mainly for purposes other than those of retail trade or business and would not (apart from sub-paragraph (3)) be regarded as a shop, only such part of the premises as—

- (a) is used wholly or mainly for the purposes of retail trade or business; or
- (b) is used both for the purposes of retail trade or business and for the purposes of wholesale trade and is used wholly or mainly for those two purposes considered together,

is to be regarded as a shop for the purposes of this Schedule.

(5) In sub-paragraph (4)(b) “wholesale trade” means the sale of goods for use or resale in the course of a business or the hire of goods for use in the course of a business.

(6) In this paragraph “retail trade or business” includes—

- (a) the business of a barber or hairdresser;
- (b) the business of hiring goods otherwise than for use in the course of a trade or business; and
- (c) retail sales by auction,

but does not include catering business or the sale at theatres and places of amusement of programmes, catalogues and similar items.



- (7) In sub-paragraph (6) “catering business” means—
- (a) the sale of meals, refreshments or intoxicating liquor for consumption on the premises on which they are sold; or
  - (b) the sale of meals or refreshments prepared to order for immediate consumption off the premises.
- (8) In this Schedule—
- “notice period”, in relation to an opted-out shop worker, has the meaning given by paragraph 7(3);
  - “opted-out”, in relation to a shop worker, shall be construed in accordance with paragraph 7(1) and (2);
  - “opting-in notice”, in relation to a shop worker, has the meaning given by paragraph 2(6);
  - “opting-out notice”, in relation to a shop worker, has the meaning given by paragraph 6(2); and
  - “protected”, in relation to a shop worker, shall be construed in accordance with paragraph 2(1) to (5).
- (9) This Schedule shall be construed as one with the Employment Rights (Northern Ireland) Order 1996, referred to in this Schedule as “the Employment Rights Order”.
- (10) Chapter III of Part I of the Employment Rights Order (computation of period of continuous employment) shall have effect for the purposes of this Schedule as it has effect for the purposes of that Order.
- (11) Where Article 128 of the Employment Rights Order (failure to permit woman to return to work after childbirth treated as dismissal) applies to an employee who was employed as a shop worker under her contract of employment on the last day of her maternity leave period, she shall be treated for the purposes of this Schedule as if she had been employed as a shop worker on the day with effect from which she is treated as dismissed under that Article.
- (12) Where an employee is taken to be dismissed for the purposes of Part XI of the Employment Rights Order by virtue of Article 128 of that Order, references in paragraphs 11 and 12 to the effective date of termination are to the notified day of return.

#### *Protected shop workers*

- 2.—(1) Subject to sub-paragraph (5), a shop worker is to be regarded as “protected” for the purposes of any provision of this Schedule if (and only if) sub-paragraph (2) or (3) applies to him.
- (2) This sub-paragraph applies to a shop worker if—
- (a) on the day before the commencement date, he was employed as a shop 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.
- (3) This sub-paragraph applies to any shop 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 Schedule were disregarded.
- (4) Where on the day before the commencement date an employee’s relations with his employer have ceased to be governed by a contract of employment, he shall be regarded as satisfying sub-paragraph (2)(a) if—

- (a) that day fell in a week which counts as a period of employment with that employer under Article 8(2) or (3) of the Employment Rights Order or under regulations under Article 15 of that Order; and
  - (b) on the last day before the commencement date on which his relations with his employer were governed by a contract of employment, the employee was employed as a shop worker, but not to work only on Sunday.
- (5) A shop worker is not a protected shop worker if—
- (a) he has given his employer an opting-in notice on or after the commencement date; and
  - (b) after giving the notice, he has expressly agreed with his employer to do shop work on Sunday or on a particular Sunday.
- (6) In this Schedule “opting-in notice”, in relation to a shop worker, means written notice, signed and dated by the shop worker, in which the shop worker expressly states that he wishes to work on Sunday or that he does not object to Sunday working.

#### *Contractual requirements relating to Sunday work*

- 3.—(1) Any contract of employment under which a shop worker who satisfies paragraph 2(2)(a) was employed on the day before the commencement date is unenforceable to the extent that it—
- (a) requires the shop worker to do shop work on Sunday on or after that date, or
  - (b) requires the employer to provide the shop worker with shop work on Sunday on or after that date.
- (2) Subject to paragraph (3), any agreement entered into after the commencement date between a protected shop worker and his employer is unenforceable to the extent that it—
- (a) requires the shop worker to do shop work on Sunday, or
  - (b) requires the employer to provide the shop worker with shop work on Sunday.
- (3) Where, after giving an opting-in notice, a protected shop worker expressly agrees with his employer to do shop work on Sunday or on a particular Sunday (and so ceases to be protected), his contract of employment shall be taken to be varied to the extent necessary to give effect to the terms of the agreement.
- (4) The reference in sub-paragraph (2) to a protected shop worker includes a reference to an employee who although not a protected shop worker at the time when the agreement is entered into is a protected shop worker on the day on which she returns to work in accordance with Article 111 of the Employment Rights Order, or in pursuance of an offer made in the circumstances described in Article 128(3) of that Order, after a period of absence from work occasioned wholly or partly by pregnancy or childbirth.
- (5) For the purposes of paragraph 2(2)(b), the appropriate date—
- (a) in relation to sub-paragraphs (2) and (3), is the day on which the agreement is entered into; and
  - (b) in relation to sub-paragraph (4), is the day on which the employee returns to work.

#### *Contracts with guaranteed hours*

- 4.—(1) This paragraph applies where—
- (a) under the contract of employment under which a shop worker who satisfies paragraph 2(2) (a) was employed on the day before the commencement date, the employer is, or may be, required to provide him with shop work for a specified number of hours each week;



- (b) under the contract the shop worker was, or might have been, required to work on Sunday before the commencement date; and
- (c) the shop worker has done shop work on Sunday in that employment (whether or not before the commencement date) but has, on or after that date ceased to do so.

(2) So long as the shop worker remains a protected shop worker, the contract shall not be regarded as requiring the employer to provide him with shop work on weekdays in excess of the hours normally worked by the shop worker on weekdays before he ceased to do shop work on Sunday.

(3) For the purposes of paragraph 2(2)(b), the appropriate date in relation to this paragraph is any time in relation to which the contract is to be enforced.

*Reduction of pay, etc.*

5.—(1) This paragraph applies where—

- (a) under the contract of employment under which a shop worker who satisfies paragraph 2(2)
  - (a) was employed on the day before the commencement date, the shop worker was, or might have been, required to work on Sunday before the commencement date;
- (b) the shop worker has done shop work on Sunday in that employment (whether or not before the commencement date) but has, on or after that date, ceased to do so; and
- (c) it is not apparent from the contract what part of the remuneration payable, or of any other benefit accruing, to the shop worker was intended to be attributable to shop work on Sunday.

(2) So long as the shop worker remains a protected shop worker, the contract shall be regarded as enabling the employer to reduce the amount of remuneration paid, or the extent of the other benefit provided, to the shop worker in respect of any period by the relevant proportion.

(3) In sub-paragraph (2) “the relevant proportion” means the proportion which the hours of shop work which (apart from this Schedule) the shop worker could have been required to do on Sunday in the period (“the contractual Sunday hours”) bears to the aggregate of those hours and the hours of work actually done by the shop worker in the period.

(4) Where, under the contract of employment, the hours of work actually done on weekdays in any period would be taken into account in determining the contractual Sunday hours, they shall be taken into account in determining the contractual Sunday hours for the purposes of sub-paragraph (3).

(5) For the purposes of paragraph 2(2)(b), the appropriate date in relation to this paragraph is the end of the period in respect of which the remuneration is paid or the benefit accrues.

*Notice of objection to Sunday working*

6.—(1) A shop worker to whom this paragraph applies may at any time give his employer written notice, signed and dated by the shop worker, to the effect that he objects to Sunday working.

(2) In this Schedule “opting-out notice” means a notice given under sub-paragraph (1) by a shop worker to whom this paragraph applies.

(3) This paragraph applies to any shop worker who under his contract of employment—

- (a) is or may be required to work on Sunday (whether or not as a result of previously giving an opting-in notice); but
- (b) is not employed to work only on Sunday.



*Meaning of "opted-out shop worker"*

7.—(1) Subject to sub-paragraph (2), a shop worker is to be regarded as "opted-out" for the purposes of this Schedule if (and only if,)—

- (a) he has given his employer an opting-out notice;
  - (b) he has been continuously employed during the period beginning with the day on which the notice was given 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.
- (2) A shop worker is not an opted-out shop worker if—

- (a) after giving the opting-out notice concerned, he has given his employer an opting-in notice; and
- (b) after giving the opting-in notice, he has expressly agreed with his employer to do shop work on Sunday or on a particular Sunday.

(3) In this Schedule "notice period", in relation to an opted-out shop worker, means, subject to paragraph 8(2), the period of three months beginning with the day on which the opting-out notice concerned was given.

*Explanatory statement*

8.—(1) Where a person becomes a shop worker to whom paragraph 6 applies, his employer shall, before the end of the period of two months beginning with the day on which that person becomes such a worker, give him a written statement in the prescribed form.

(2) If—

- (a) an employer fails to comply with sub-paragraph (1) in relation to any shop worker; and
- (b) the shop worker, on giving the employer an opting-out notice, becomes an opted-out shop worker,

paragraph 7(3) has effect in relation to the shop worker with the substitution for "three months" of "one month".

(3) An employer shall not be regarded as failing to comply with sub-paragraph (1) in any case where, before the end of the period referred to in that sub-paragraph, the shop worker has given him an opting-out notice.

(4) Subject to sub-paragraph (5), the prescribed form is as follows—

**"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.

68, 69 or 70 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 (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) This paragraph does not apply to employment where under the employee's contract of employment he ordinarily works outside Northern Ireland; and paragraph (5) of Article 239 of the Employment Rights Order applies for the purposes of this sub-paragraph as it applies for the purposes of paragraph (2) of that Article.

(15) Articles 248 and 249 of the Employment Rights Order (death of employee or employer) applies 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.

*Right not to be dismissed for refusing Sunday work*

11.—(1) Where an employee who is a protected shop worker or an opted-out shop worker is dismissed, he shall be regarded for the purposes of Part XI of the Employment Rights Order as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that he refused, or proposed to refuse, to do shop work on Sunday or on a particular Sunday.

(2) Sub-paragraph (1) does not apply in relation to an opted-out shop worker where the reason (or principal reason) for the dismissal is that he refused, or proposed to refuse, to do shop work on any Sunday or Sundays falling before the end of the notice period.

(3) A shop worker who is dismissed shall be regarded for the purposes of Part XI of the Employment Rights Order as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the shop worker gave, or proposed to give, an opting-out notice to the employer.

(4) For the purposes of paragraph 2(2)(b) or 7(1)(b), the appropriate date in relation to this paragraph is the effective date of termination.

(5) Article 240(1) of the Employment Rights Order (contracts for a fixed term) does not prevent Part XI of that Order from applying if the dismissal is regarded as unfair by virtue of this paragraph.

12.—(1) An employee who is dismissed shall be regarded for the purposes of Part XI of the Employment Rights Order as unfairly dismissed if—

- (a) the reason (or, if more than one, the principal reason) for the dismissal is that the employee was redundant;
- (b) it is shown that the circumstances constituting the redundancy applied equally to one or more other employees in the same undertaking who held positions similar to that held by the employee and who have not been dismissed by the employer; and
- (c) it is shown that sub-paragraph (2) applies.

(2) This sub-paragraph applies if either—

- (a) the employee was a protected shop worker or an opted-out shop worker and the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was that specified in sub-paragraph (1) of paragraph 11 (read with sub-paragraph (2) of that paragraph); or



- (b) the employee was a shop worker and the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was that specified in sub-paragraph (3) of that paragraph.

(3) For the purposes of paragraph 2(2)(b) or 7(1)(b), the appropriate date in relation to this paragraph is the effective date of termination.

13. Articles 140 and 141 of the Employment Rights Order (qualifying period of employment and upper age limit) and Article 142(1) of that Order (dismissal procedures agreements) do not apply if—

- (a) sub-paragraph (1) of paragraph 11 (read with sub-paragraph (2) of that paragraph) or sub-paragraph (3) of that paragraph applies; or
- (b) paragraph 12 applies.

#### *Restrictions on contracting out of Schedule*

14.—(1) Any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports—

- (a) to exclude or limit the operation of any provision of this Schedule; or
- (b) to preclude any person from presenting a complaint to an industrial tribunal by virtue of any provision of this Schedule.

(2) Sub-paragraph (1) does not apply to an agreement to refrain from presenting or continuing with a complaint where—

- (a) the Agency has taken action under Article 20 of the Industrial Tribunals (Northern Ireland) Order 1996 (conciliation); or
- (b) the conditions regulating compromise agreements (as set out in Article 245(3) of the Employment Rights Order) are satisfied in relation to the agreement.

#### *Dismissal on grounds of assertion of statutory right*

15. In Article 135 of the Employment Rights Order (dismissal on grounds of assertion of statutory right) in paragraph (4)(a) after “this Order” insert “or Schedule 2 to the Shops (Sunday Trading &c.) (Northern Ireland) Order 1997”.

### SCHEDULE 3

Article 14(1).

#### REPEALS

Chapter or Number	Short title	Extent of repeal
1946 c. 7 (N.I.).	The Shops Act (Northern Ireland) 1946.	The whole Act.
1955 c. 29 (N.I.).	The Registration of Births, Deaths and Marriages (Fees, etc.) Act (Northern Ireland) 1955.	In Schedule 2, the entry relating to the Shops Act (Northern Ireland) 1946.
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraph 41.



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 an industrial 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.”

(5) The Department of Economic Development may by order subject to negative resolution amend the prescribed form set out in sub-paragraph (4).

#### *Contractual requirements relating to Sunday work*

9.—(1) Where a shop worker gives his employer an opting-out notice, the contract of employment under which he was employed immediately before he gave that notice becomes unenforceable to the extent that it—

- (a) requires the shop worker to do shop work on Sunday after the end of the notice period; or
- (b) requires the employer to provide the shop worker with shop work on Sunday after the end of that period.

(2) Subject to sub-paragraph (3), any agreement entered into between an opted-out shop worker and his employer is unenforceable to the extent that it—

- (a) requires the shop worker to do shop work on Sunday after the end of the notice period; or
- (b) requires the employer to provide the shop worker with shop work on Sunday after the end of that period.

(3) Where, after giving an opting-in notice, an opted-out shop worker expressly agrees with his employer to do shop work on Sunday or on a particular Sunday (and so ceases to be opted-out), his contract of employment shall be taken to be varied to the extent necessary to give effect to the terms of the agreement.

(4) The reference in sub-paragraph (2) to an opted-out shop worker includes a reference to an employee who although not an opted-out shop worker at the time when the agreement is entered into—

- (a) had given her employer an opting-out notice before that time; and
- (b) is an opted-out shop worker on the day on which she returns to work in accordance with Article 111 of the Employment Rights Order, or in pursuance of an offer made in the circumstances described in Article 128(3) of that Order, after a period of absence from work occasioned wholly or partly by pregnancy or childbirth.

(5) For the purposes of paragraph 7(1)(b), the appropriate date—

- (a) in relation to sub-paragraphs (2) and (3), is the day on which the agreement is entered into; and
- (b) in relation to sub-paragraph (4), is the day on which the employee returns to work.

*Right not to suffer detriment for refusing Sunday work*

10.—(1) An employee who is a protected shop worker or an opted-out shop 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 shop work on Sunday or on a particular Sunday.

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

(3) An employee who is a shop 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 shop 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 shop 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 shop 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 shop workers or opted-out shop workers; or
- (b) who under their contracts of employment are not obliged to do shop work on Sunday,

if they agree to do shop 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 on the ground that he has been subjected to a detriment in contravention of Article

Chapter or Number	Short title	Extent of repeal
<a href="#">1976 NI 14.</a>	The Births and Deaths Registration (Northern Ireland) Order 1976.	In Schedule 1, the entry relating to the Shops Act (Northern Ireland) 1946.
<a href="#">1978 NI 28.</a>	The Shops (Northern Ireland) Order 1978.	The whole Order.
<a href="#">1982 NI 6.</a>	The Departments (Northern Ireland) Order 1982.	In Part III of Schedule 1, the entry relating to the Shops Act (Northern Ireland) 1946.
<a href="#">1985 NI 15.</a>	The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.	In Schedule 3, paragraphs 6 to 10.
<a href="#">1990 NI 2.</a>	The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990.	In Part I of Schedule 3, the entry relating to the Shops Act (Northern Ireland) 1946.

#### EXPLANATORY NOTE

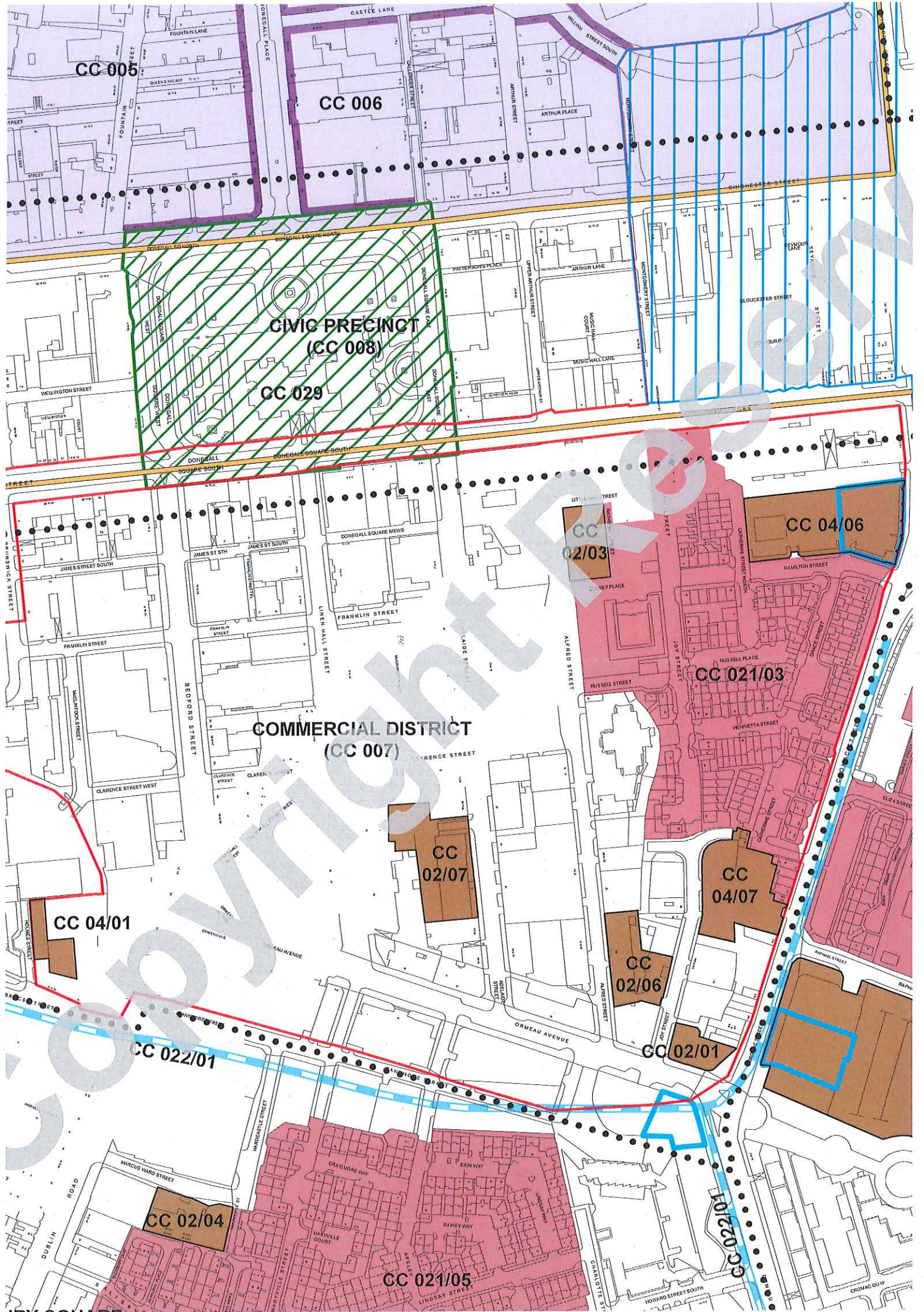
*(This note is not part of the Order)*

This Order reforms the law relating to Sunday trading, provides for the rights of shop workers in relation to Sunday working and repeals the Shops Act (Northern Ireland) 1946.









CC 001

CC 006

CIVIC PRECINCT  
(CC 008)

CC 029

COMMERCIAL DISTRICT  
(CC 007)

CC  
02/03

CC 04/06

CC 021/03

CC 04/01

CC  
02/07

CC  
04/07

CC  
02/06

CC 02/01

CC 022/01

CC 02/04

CC 021/05

CC 022/01







**List of organisations making written submissions**

Belfast and District Trade Union

Belfast Chamber of Commerce

Union of Shop, Distributive and Allied Workers (Usdaw)

Reformed Presbyterian Church of Ireland

Retail NI and the Association of Corner Shops (ACS)

Christian Action Research and Education (CARE)

Visit Belfast

NI Hotels Federation

