

SCHEDULES

SCHEDULE 4

RIGHTS OF SHOP WORKERS AS RESPECTS SUNDAY WORKING

Effect of rights on contracts of employment

- 12 (1) Any contract of employment under which a shop worker who satisfies the conditions in paragraph 2(2)(a) and (b) above 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 the commencement date, or
 - (b) requires the employer to provide the shop worker with shop work on Sunday on or after that date.
- (2) Except as provided by sub-paragraph (3) below, 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 as mentioned in paragraph 3(1)(b) above (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) above to a protected shop worker includes a reference to an employee who, although not a protected shop worker for the purposes of that sub-paragraph at the time when the agreement is entered into, is a protected shop worker on the day on which she returns to work as mentioned in paragraph 10 of Schedule 13 to the 1978 Act (maternity).
- 13 (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) Except as provided by sub-paragraph (3) below, 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.

Status: This is the original version (as it was originally enacted).

- (3) Where, after giving an opting-in notice, an opted-out shop worker expressly agrees as mentioned in paragraph 5(5)(b) above (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) above to an opted-out shop worker includes a reference to an employee who, although not an opted-out shop worker for the purposes of that sub-paragraph at the time when the agreement is entered into, had given her employer an opting-out notice before that time and is an opted-out shop worker on the day on which she returns to work as mentioned in paragraph 10 of Schedule 13 to the 1978 Act (maternity).
- 14 If—
- (a) under the contract of employment under which a shop worker who satisfies the conditions in paragraph 2(2)(a) and (b) above 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 that 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 the commencement date, ceased to do so,
- then, so long as the shop worker remains a protected shop worker, that 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.
- 15 (1) If—
- (a) under the contract of employment under which a shop worker who satisfies the conditions in paragraph 2(2)(a) and (b) above was employed on the day before the commencement date, the shop worker was or might have been required to work on Sunday before that 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 the commencement 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,
- then, so long as the shop worker remains a protected shop worker, that 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 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 (in this paragraph referred to as “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.
- (2) 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 (1) above.