

SCHEDULES

SCHEDULE 4

RIGHTS OF SHOP WORKERS AS RESPECTS SUNDAY WORKING

Interpretation

- 1 (1) In this Schedule, except where a contrary intention appears—
- “the 1978 Act” means the Employment Protection (Consolidation) Act 1978,
 - “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,
 - “the commencement date” means the day on which this Schedule comes into force,
 - “dismissal” has the same meaning as in Part V of the 1978 Act,
 - “intoxicating liquor” has the same meaning as in the Licensing Act 1964,
 - “notice period”, in relation to an opting-out notice, has the meaning given by paragraph 6 below,
 - “opted-out”, in relation to a shop worker, shall be construed in accordance with paragraph 5 below,
 - “opting-in notice” has the meaning given by paragraph 3(2) below,
 - “opting-out notice” has the meaning given by paragraph 4(3) below,
 - “protected”, in relation to a shop worker, shall be construed in accordance with paragraphs 2 and 3 below,
 - “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,
 - “shop” includes, subject to sub-paragraph (2) below, any premises where any retail trade or business is carried on,
 - “shop work” means work in or about a shop in England or Wales on a day on which the shop is open for the serving of customers, and
 - “shop worker” means an employee who, under his contract of employment, is required to do shop work or may be required to do such work.
- (2) Where premises are used mainly for purposes other than those of retail trade or business and would not apart from sub-paragraph (1) above be regarded as a shop, only such part of the premises as—

Status: This is the original version (as it was originally enacted).

- (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.

- (3) In sub-paragraph (2) above “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.
- (4) Subject to sub-paragraph (5) below, the following provisions of the 1978 Act—
section 151(1) and (2) (computation of period of continuous employment), and
section 153 (general interpretation),
shall have effect for the purposes of this Schedule as they have effect for the purposes of that Act.
- (5) For the purposes of this Schedule, section 151(2) of the 1978 Act shall have effect with the omission of the words from “but” onwards and Schedule 13 to that Act shall have effect with the following modifications—
 - (a) in paragraph 1 for the words “paragraphs 3 to 12” there shall be substituted “paragraph 4 or paragraphs 9 to 12”,
 - (b) paragraph 3 and paragraphs 5 to 8 shall be omitted, and
 - (c) in paragraph 4 the words “which normally involves employment for sixteen hours or more weekly” shall be omitted.
- (6) Where section 56 of the 1978 Act (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 section.