

SCHEDULES

SCHEDULE 4

RIGHTS OF SHOP WORKERS AS RESPECTS SUNDAY WORKING

Meaning of “opted-out shop worker”

- 5 (1) Subject to sub-paragraph (5) below, a shop worker is to be regarded for the purposes of this Schedule as “opted-out” 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 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) In sub-paragraph (1) above “the appropriate date” means—
- (a) in relation to paragraphs 7 and 8 below, the effective date of termination,
 - (b) in relation to paragraph 10 below, the date of the act or failure to act,
 - (c) in relation to sub-paragraph (2) or (3) of paragraph 13 below, the day on which the agreement is entered into, and
 - (d) in relation to sub-paragraph (4) of that paragraph, the day on which the employee returns to work.
- (3) For the purposes of sub-paragraph (2)(a) above, “the effective date of termination”, in any case falling within paragraph 1(6) above, means the day with effect from which the employee is treated by section 56 of the 1978 Act as being dismissed.
- (4) For the purposes of sub-paragraph (2)(b) above—
- (a) where an act extends over a period, the “date of the act” means the first day of the 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.
- (5) 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 that opting-in notice, he has expressly agreed with his employer to do shop work on Sunday or on a particular Sunday.