

## SCHEDULES

### SCHEDULE 4

#### RIGHTS OF SHOP WORKERS AS RESPECTS SUNDAY WORKING

##### *Meaning of “protected shop worker”*

- 2 (1) Subject to paragraph 3 below, a shop worker is to be regarded for the purposes of this Schedule as “protected” if, and only if, sub-paragraph (2) or (3) below 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,
  - (b) on that day, he was not employed to work only on Sunday,
  - (c) he has been continuously employed during the period beginning with that day and ending with the appropriate date, and
  - (d) 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) In sub-paragraph (2)(c) 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 12 below, the day on which the agreement is entered into,
  - (d) in relation to sub-paragraph (4) of that paragraph, the day on which the employee returns to work,
  - (e) in relation to paragraph 14 below, any time in relation to which the contract is to be enforced, and
  - (f) in relation to paragraph 15 below, the end of the period in respect of which the remuneration is paid or the benefit accrues.
- (5) For the purposes of sub-paragraph (4)(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.
- (6) For the purposes of sub-paragraph (4)(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,

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*Status: This is the original version (as it was originally enacted).*

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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.

- (7) 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 the conditions in sub-paragraph (2)(a) and (b) above if—
- (a) that day falls in a week which counts as a period of employment with that employer under paragraph 9 or 10 of Schedule 13 to the 1978 Act (absence from work because of sickness, pregnancy etc.) or under regulations made under paragraph 20 of that Schedule (reinstatement or re-engagement of dismissed employee), 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 a shop worker and was not employed to work only on Sunday.