



2016 CHAPTER 15

*Protected disclosures*

**Worker subjected to detriment by co-worker or agent of employer**

**16.—(1)** In Article 70B of the Employment Rights (Northern Ireland) Order 1996 (protected disclosures), after paragraph (1) insert—

“(1A) A worker (“W”) has the right not to be subjected to any detriment by any act, or any deliberate failure to act, done—

(a) by another worker of W’s employer in the course of that other worker’s employment, or

(b) by an agent of W’s employer with the employer’s authority,

on the ground that W has made a protected disclosure.

(1B) Where a worker is subjected to detriment by anything done as mentioned in paragraph (1A), that thing is treated as also done by the worker’s employer.

(1C) For the purposes of paragraph (1B), it is immaterial whether the thing is done with the knowledge or approval of the worker’s employer.

(1D) In proceedings against W’s employer in respect of anything alleged to have been done as mentioned in paragraph (1A)(a), it is a defence for the employer to show that the employer took all reasonable steps to prevent the other worker—

(a) from doing that thing, or

(b) from doing anything of that description.

(1E) A worker or agent of W’s employer is not liable by reason of paragraph (1A) for doing something that subjects W to detriment if—

- (a) the worker or agent does that thing in reliance on a statement by the employer that doing it does not contravene this Order, and
- (b) it is reasonable for the worker or agent to rely on the statement.

But this does not prevent the employer from being liable by reason of paragraph (1B).”.

(2) In Article 71 of that Order (complaints to industrial tribunals), in paragraph (5)—

- (a) for “includes, where” substitute “includes—

- “(a) where”;

- (b) at the end insert—

- “(b) in the case of proceedings against a worker or agent under Article 70B(1A), the worker or agent.”.