

## SCHEDULES

### SCHEDULE 3

#### EMPLOYMENT RIGHTS IN HEALTH AND SAFETY CASES

#### PART I

#### ARTICLES 13A TO 13D OF THE NO. 2 ORDER, AS INSERTED

##### *Right not to suffer detriment in health and safety cases*

##### **Right not to suffer detriment in health and safety cases**

**13A.**—(1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that—

- (a) having been designated by the employer to carry out activities in connection with preventing or reducing risks to health and safety at work, he carried out, or proposed to carry out, any such activities;
- (b) being a representative of workers on matters of health and safety at work, or a member of a safety committee—
  - (i) in accordance with arrangements established under any statutory provision; or
  - (ii) by reason of being acknowledged as such by the employer, he performed, or proposed to perform, any functions as such a representative or a member of such a committee;
- (c) being an employee at a place where—
  - (i) there was no such representative or safety committee; or
  - (ii) there was such a representative or safety committee but it was not reasonably practicable for the employee to raise the matter by those means, he brought to his employer's attention, by reasonable means, circumstances connected with his work which he reasonably believed were harmful or potentially harmful to health or safety;
- (d) in circumstances of danger which he reasonably believed to be serious and imminent and which he could not reasonably have been expected to avert, he left, or proposed to leave, or (while the danger persisted) refused to return to, his place of work or any dangerous part of his place of work; or
- (e) in circumstances of danger which he reasonably believed to be serious and imminent, he took, or proposed to take, appropriate steps to protect himself or other persons from the danger.

(2) For the purposes of paragraph (1)(e) whether steps which an employee took, or proposed to take, were appropriate shall be judged by reference to all the circumstances including, in particular, his knowledge and the facilities and advice available to him at the time.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(3) An employee shall not be regarded as having been subjected to any detriment on the ground specified in paragraph (1)(e) if the employer shows that it was, or would have been, so negligent for the employee to take the steps which he took, or proposed to take, that a reasonable employer might have treated him as the employer did.

(4) Except where an employee is dismissed in circumstances in which, by virtue of Article 25 of the No. 1 Order, Article 20 of that Order does not apply to the dismissal, this Article shall not apply where the detriment in question amounts to dismissal.