

STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART VI

PROTECTION FROM SUFFERING DETRIMENT ETC. IN EMPLOYMENT

CHAPTER I

RIGHTS NOT TO SUFFER DETRIMENT

Health and safety cases

68.—(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, the employee 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 member of a safety committee—
 - (i) in accordance with arrangements established under or by virtue of any statutory provision, or
 - (ii) by reason of being acknowledged as such by the employer,

the employee performed (or proposed to perform) any functions as such a representative or a member of such a committee,

[^{F1}(ba) the employee took part (or proposed to take part) in consultation with the employer pursuant to the Health and Safety (Consultation with Employees) Regulations (Northern Ireland) 1996 or in an election of representatives of employee safety within the meaning of those Regulations (whether as a candidate or otherwise),]

- (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,

^{F2}(d)

^{F3}(e)

[^{F4}(1A) A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by the worker's employer done on the ground that—

- (a) in circumstances of danger which the worker reasonably believed to be serious and imminent and which the worker could not reasonably have been expected to avert, the

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Employment Rights (Northern Ireland) Order 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

worker left (or proposed to leave) or (while the danger persisted) refused to return to the worker's place of work or any dangerous part of the worker's place of work, or

- (b) in circumstances of danger which the worker reasonably believed to be serious and imminent, the worker took (or proposed to take) appropriate steps to protect the worker or other persons from the danger.]

(2) For the purposes of paragraph [F5(1A)(b)] whether steps which [F6a worker] took (or proposed to take) were appropriate is to be judged by reference to all the circumstances including, in particular, his knowledge and the facilities and advice available to him at the time.

(3) [F7A worker] is not to be regarded as having been subjected to any detriment on the ground specified in paragraph [F8(1A)(b)] if the employer shows that it was (or would have been) so negligent for [F9the worker] to take the steps which he took (or proposed to take) that a reasonable employer might have treated him as the employer did.

(4) F10 . . . this Article does not apply where the [F11worker is an employee and the] detriment in question amounts to dismissal (within the meaning of[F10 Part XI]).

F1	SR 1996/511
F2	Art. 68(1)(d) omitted (31.5.2021) by virtue of The Employment Rights (Northern Ireland) Order 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order (Northern Ireland) 2021 (S.R. 2021/103) , arts. 1, 3(a) (with art. 7(3))
F3	Art. 68(1)(e) omitted (31.5.2021) by virtue of The Employment Rights (Northern Ireland) Order 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order (Northern Ireland) 2021 (S.R. 2021/103) , arts. 1, 3(a) (with art. 7(3))
F4	Art. 68(1A) inserted (31.5.2021) by The Employment Rights (Northern Ireland) Order 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order (Northern Ireland) 2021 (S.R. 2021/103) , arts. 1, 3(b) (with art. 7)
F5	Word in art. 68(2) substituted (31.5.2021) by The Employment Rights (Northern Ireland) Order 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order (Northern Ireland) 2021 (S.R. 2021/103) , arts. 1, 3(c)(i)
F6	Words in art. 68(2) substituted (31.5.2021) by The Employment Rights (Northern Ireland) Order 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order (Northern Ireland) 2021 (S.R. 2021/103) , arts. 1, 3(c)(ii)
F7	Words in art. 68(3) substituted (31.5.2021) by The Employment Rights (Northern Ireland) Order 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order (Northern Ireland) 2021 (S.R. 2021/103) , arts. 1, 3(d)(i)
F8	Word in art. 68(3) substituted (31.5.2021) by The Employment Rights (Northern Ireland) Order 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order (Northern Ireland) 2021 (S.R. 2021/103) , arts. 1, 3(d)(ii)
F9	Words in art. 68(3) substituted (31.5.2021) by The Employment Rights (Northern Ireland) Order 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order (Northern Ireland) 2021 (S.R. 2021/103) , arts. 1, 3(d)(iii)
F10	1999 NI 9
F11	Words in art. 68(4) inserted (31.5.2021) by The Employment Rights (Northern Ireland) Order 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order (Northern Ireland) 2021 (S.R. 2021/103) , arts. 1, 3(e)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Employment Rights (Northern Ireland) Order 1996. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act applied with modifications by [S.R. 2023/156 reg. 15](#)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Pt. 7A inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 1](#)
- Ch. 5 inserted by [2022 c. 27 \(N.I.\) s. 1\(1\)](#)
- art. 21(4B) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 2](#)
- art. 23(1)(zza) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 3](#)
- art. 70F inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 4](#)
- art. 70G inserted by [2020 c. 7 Sch. 7 para. 20](#)
- art. 71(1C) inserted by [2020 c. 7 Sch. 7 para. 21\(a\)](#)
- art. 72(8) inserted by [2020 c. 7 Sch. 7 para. 22\(b\)](#)
- art. 85ZS(3)(a)-(c) substituted for words by [2022 c. 18 \(N.I.\) Sch. 3 para. 47\(4\)](#)
- art. 95F(5A) inserted by [2016 c. 15 \(N.I.\) Sch. 2 para. 32](#)
- art. 135E inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 6](#)
- art. 135G inserted by [2020 c. 7 Sch. 7 para. 25](#)
- art. 137(6D) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 7](#)
- art. 137(7N) inserted by [2020 c. 7 Sch. 7 para. 26\(b\)](#)
- art. 140(3)(fj) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 8](#)
- art. 140(3)(fl) inserted by [2020 c. 7 Sch. 7 para. 27](#)
- art. 143(2)(ddd) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 9](#)
- art. 144(2)(ddd) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 10](#)