

SCHEDULES

SCHEDULE 3

EMPLOYMENT RIGHTS IN HEALTH AND SAFETY CASES

PART II

ARTICLE 22B OF THE NO. 1 ORDER, AS INSERTED

Dismissal in health and safety cases

22B.—(1) The dismissal of an employee by an employer shall be regarded for the purposes of this Order as having been unfair if the reason for it (or, if more than one, the principal reason) was that the employee—

- (a) having been designated by the employer to carry out activities in connection with preventing or reducing risks to health and safety at work, 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,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,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, 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, 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.

(3) Where the reason (or, if more than one, the principal reason) for the dismissal of an employee was that specified in paragraph (1)(e), the dismissal shall not be regarded as having been unfair if the employer shows that it was, or would have been, so negligent for the employee to take the steps

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which he took, or proposed to take, that a reasonable employer might have dismissed him for taking, or proposing to take, them.