



# Employment Rights Act 1996

## 1996 CHAPTER 18

### PART V **E+W+S**

#### PROTECTION FROM SUFFERING DETRIMENT IN EMPLOYMENT

##### *Rights not to suffer detriment*

#### 44 Health and safety cases. **E+W+S**

- (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 enactment, 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,
  - <sup>[F1]</sup>(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 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,

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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 his or her employer done on the ground that—

- (a) in circumstances of danger which the worker reasonably believed to be serious and imminent and which he or she could not reasonably have been expected to avert, he or she left (or proposed to leave) or (while the danger persisted) refused to return to his or her place of work or any dangerous part of his or her place of work, or
- (b) in circumstances of danger which the worker reasonably believed to be serious and imminent, he or she took (or proposed to take) appropriate steps to protect himself or herself or other persons from the danger.]

(2) For the purposes of subsection [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 subsection [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 section does not apply where the [F11worker is an employee and the] detriment in question amounts to dismissal (within the meaning of [F12Part X]).

Textual Amendments	
F1	S. 44(1)(ba) inserted (1.10.1996) by S.I. 1996/1513, <b>reg. 8</b>
F2	S. 44(1)(d) omitted (31.5.2021) by virtue of The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021 (S.I. 2021/618), arts. 1, <b>3(a)</b> (with art. 7(1)-(4))
F3	S. 44(1)(e) omitted (31.5.2021) by virtue of The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021 (S.I. 2021/618), arts. 1, <b>3(a)</b> (with art. 7(1)-(4))
F4	S. 44(1A) inserted (31.5.2021) by The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021 (S.I. 2021/618), arts. 1, <b>3(b)</b> (with art. 7(1)-(4))
F5	Word in s. 44(2) substituted (31.5.2021) by The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021 (S.I. 2021/618), arts. 1, <b>3(c)(i)</b>
F6	Words in s. 44(2) substituted (31.5.2021) by The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021 (S.I. 2021/618), arts. 1, <b>3(c)(ii)</b>
F7	Words in s. 44(3) substituted (31.5.2021) by The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021 (S.I. 2021/618), arts. 1, <b>3(d)(i)</b>
F8	Word in s. 44(3) substituted (31.5.2021) by The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021 (S.I. 2021/618), arts. 1, <b>3(d)(ii)</b>
F9	Words in s. 44(3) substituted (31.5.2021) by The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021 (S.I. 2021/618), arts. 1, <b>3(d)(iii)</b>
F10	Words in s. 44(4) repealed (25.10.1999) by 1999 c. 26, ss. 18(2)(a), 44, <b>Sch. 9(3)</b> ; S.I. 1999/2830, art. 2(1)(3), Sch. 1 Pt. I, <b>Sch. 2 Pt. I</b> (with Sch. 3 para. 2)

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- F11** Words in s. 44(4) inserted (31.5.2021) by The Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021 (S.I. 2021/618), arts. 1, **3(e)**
- F12** Words in s. 44(4) substituted (25.10.1999) by 1999 c. 26, s. **18(2)(b)**; S.I. 1999/2830, art. 2(1)(3), **Sch. 1 Pt. I** (with Sch. 3 para. 2)

**Changes to legislation:**

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

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

- Pt. 8 Ch. 5 inserted by [2023 c. 20 Sch. para. 2](#)
- Pt. 8A Ch. 1 heading inserted by [2023 c. 46 s. 1\(3\)](#)
- Pt. 8A Ch. 2 inserted by [2023 c. 46 s. 1\(4\)](#)
- Pt. 8A Ch. 3 inserted by [2023 c. 46 s. 2](#)
- Pt. 8A Ch. 4 inserted by [2023 c. 46 s. 3\(2\)](#)
- s. 43K(1)(ca) and word omitted by [2013 c. 24 s. 20\(5\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 43K(2)(ba) omitted by [2013 c. 24 s. 20\(6\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 43K(1)(ba) by S.I. 2006/1056, Sch. para. 7 is to come into force on the day on which 2005 asp 13, s. 20 comes into force and that provision has never been brought into force)
- s. 47C(2)(cc) inserted by [2023 c. 20 Sch. para. 22](#)
- s. 47H inserted by [2020 c. 7 Sch. 7 para. 9](#)
- s. 47AA inserted by [2008 c. 25 s. 37](#)
- s. 47EA inserted by [2023 c. 46 Sch. para. 4](#)
- s. 47EB inserted by [2023 c. 46 Sch. para. 5](#)
- s. 48(1C) inserted by [2020 c. 7 Sch. 7 para. 10\(a\)](#)
- s. 48(1C) inserted by [2023 c. 46 Sch. para. 6\(2\)](#)
- s. 48(1D) inserted by [2023 c. 46 Sch. para. 6\(3\)](#)
- s. 49(8) inserted by [2020 c. 7 Sch. 7 para. 11\(b\)](#)
- s. 49(8) inserted by [2023 c. 46 Sch. para. 7\(4\)](#)
- s. 49C inserted by [2017 c. 16 s. 32\(4\)](#)
- s. 75I(3)(g) and word inserted by [2023 c. 20 Sch. para. 23\(b\)](#)
- s. 80C(2)(bc) inserted by [2023 c. 20 Sch. para. 24\(2\)](#)
- s. 80C(4)(bc) inserted by [2023 c. 20 Sch. para. 24\(3\)](#)
- s. 80EB(2)(f) and word inserted by [2023 c. 20 Sch. para. 25\(b\)](#)
- s. 99(3)(cc) inserted by [2023 c. 20 Sch. para. 28](#)
- s. 101B inserted by [2008 c. 25 s. 38](#)
- s. 104H inserted by [2020 c. 7 Sch. 7 para. 14](#)
- s. 104CA inserted by [2023 c. 46 Sch. para. 9](#)
- s. 105(4B) inserted by [2008 c. 25 s. 39\(3\)](#)
- s. 105(7BC) inserted by [2020 c. 7 Sch. 7 para. 15](#)
- s. 105(7BAA) inserted by [2023 c. 46 Sch. para. 10](#)
- s. 108(3)(gia) inserted by [2023 c. 46 Sch. para. 11](#)
- s. 108(3)(de) inserted by [2008 c. 25 s. 39\(4\)](#)
- s. 108(3)(gn) inserted by [2020 c. 7 Sch. 7 para. 16](#)
- s. 110(3A) inserted by [2002 c. 22 s. 44](#)
- s. 163(6) inserted by [2022 c. 35 Sch. 5 para. 27](#)
- s. 205A(2)(ba) inserted by [2023 c. 46 Sch. para. 16\(2\)](#)
- s. 205A(8A) inserted by [2023 c. 46 Sch. para. 16\(3\)](#)
- s. 225(7)(8) inserted by [2023 c. 46 Sch. para. 17](#)
- s. 227(1)(zb)(zc) inserted by [2023 c. 46 Sch. para. 18](#)