

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

Proceedings for contravention of Article 13A

13B.—(1) An employee may present a complaint to an industrial tribunal on the ground that he has been subjected to a detriment in contravention of Article 13A.

(2) On such a complaint it shall be for the employer to show the ground on which any act, or deliberate failure to act, was done.

(3) An industrial tribunal shall not consider a complaint under this Article unless it is presented—

- (a) before the end of the period of three months beginning with the date of the act or failure to act to which the complaint relates or, where that act or failure is part of a series of similar acts or failures, the last of them; or
- (b) where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period, within such further period as it considers reasonable.

(4) For the purposes of paragraph (3)—

- (a) where an act extends over a period, the “date of the act” means the last day of that period; and
- (b) a deliberate failure to act shall be treated as done when it was decided on;

and, in the absence of evidence establishing the contrary, an employer shall be taken to decide on a failure to act when he does an act inconsistent with doing the failed act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.