
STATUTORY INSTRUMENTS

2021 No. 618

**The Employment Rights Act 1996 (Protection from Detriment
in Health and Safety Cases) (Amendment) Order 2021**

Transitional and Saving Provision

7.—(1) A worker is not to be regarded as having been subjected to a detriment in contravention of section 44(1A) of the Employment Rights Act 1996 if the date of the relevant act or failure to act, or the last of a series of similar relevant acts or failures to act, occurred before commencement day.

(2) If the date of the last of a series of similar relevant acts or failures to act occurs on or after commencement day, the fact that a relevant act or failure to act in that series occurred before commencement day does not prevent it from being taken into account in determining whether the worker has been subjected to a detriment in contravention of section 44(1A) of the Employment Rights Act 1996.

(3) The repeal by this Order of section 44(1)(d) and (e) does not prevent a complaint under section 48 that an employee has been subjected to detriment in contravention of section 44(1)(d) or (e) from being presented or continued on or after commencement day if the date of the relevant act or failure to act, or the last of a series of similar relevant acts or failures to act, occurred before commencement day.

(4) In this paragraph—

“commencement day” means the day on which this Order comes into force;

“relevant act or failure to act” means—

- (a) in relation to section 44(1) of the Employment Rights Act 1996, an act, or deliberate failure to act, by an employer done on the ground set out in section 44(1)(d) or (e) of that Act;
- (b) in relation to section 44(1A) of the Employment Rights Act 1996, an act, or deliberate failure to act, by an employer done on the ground set out in section 44(1A)(a) or (b) of that Act.

(5) Section 48(4) of the Employment Rights Act 1996 applies to paragraphs (1), (2) and (3) as it applies to section 48(3) of that Act.