STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART XI

UNFAIR DISMISSAL

CHAPTER III

SUPPLEMENTARY

Death of employer or employee

168.—(1) Where—

(a) an employer has given notice to an employee to terminate his contract of employment, and

(b) before that termination the employee or the employer dies,

this Part applies as if the contract had been duly terminated by the employer by notice expiring on the date of the death.

(2) Where—

(a) an employee's contract of employment has been terminated,

(b) by virtue of paragraph (2) or (4) of Article 129 a date later than the effective date of termination as defined in paragraph (1) of that Article is to be treated for certain purposes as the effective date of termination, and

(c) the employer or the employee dies before that date,

paragraph (2) or (4) of Article 129 applies as if the notice referred to in that paragraph as required by Article 118 expired on the date of the death.

(3) Where an employee has died, Articles 147 to 150 do not apply; and, accordingly, if the industrial tribunal finds that the grounds of the complaint are well-founded, the case shall be treated as falling within Article 146(4) as a case in which no order is made under Article 147.

(4) Paragraph (3) does not prejudice an order for reinstatement or re-engagement made before the employee's death.

(5) Where an order for reinstatement or re-engagement has been made and the employee dies before the order is complied with—

(a) if the employer has before the death refused to reinstate or re-engage the employee in accordance with the order, paragraphs (3) to (6) of Article 151 apply, and an award shall be made under paragraph (3)(b) of that Article, unless the employer satisfies the tribunal that it was not practicable at the time of the refusal to comply with the order, and

(b) if there has been no such refusal, paragraphs (1) and (2) of that Article apply if the employer fails to comply with any ancillary terms of the order which remain capable of fulfilment after the employee's death as they would apply to such a failure to comply fully with the terms of an order where the employee had been reinstated or re-engaged.