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STATUTORY INSTRUMENTS

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**1996 No. 1919**

**The Employment Rights (Northern Ireland) Order 1996**

**PART XII**

**REDUNDANCY PAYMENTS ETC.**

**CHAPTER VII**

**SUPPLEMENTARY**

*Death of employer or employee*

**Death of employer: dismissal**

**209.**—(1) Where the contract of employment of an employee is taken for the purposes of this Part to be terminated by his employer by reason of the employer's death, this Part has effect in accordance with the following provisions of this Article.

(2) Article 173 applies as if—

- (a) in paragraph (1)(a), for the words “in pursuance” onwards there were substituted “by a personal representative of the deceased employer”,
- (b) in paragraph (1)(b), for the words “either immediately” onwards there were substituted “not later than eight weeks after the death of the deceased employer”, and
- (c) in paragraphs (2)(b) and (6)(a), for the word “employer” there were substituted “personal representative of the deceased employer”.

(3) Article 176(1) applies as if—

- (a) for the words “before the end of his employment” there were substituted “by a personal representative of the deceased employer”, and
- (b) for the words “either immediately” onwards there were substituted “not later than eight weeks after the death of the deceased employer”.

(4) For the purposes of Article 176—

- (a) provisions of the contract as renewed, or of the new contract, do not differ from the corresponding provisions of the contract in force immediately before the death of the deceased employer by reason only that the personal representative would be substituted for the deceased employer as the employer, and
- (b) no account shall be taken of that substitution in determining whether refusal of the offer was unreasonable or whether the employee acted reasonably in terminating or giving notice to terminate the new or renewed employment.

(5) Article 181 has effect as if—

- (a) paragraph (1) were omitted, and
- (b) in paragraph (2), sub-paragraph (a) were omitted and, in sub-paragraph (b), for the word “four” there were substituted “eight”.

(6) For the purposes of the application of this Part (in accordance with Article 196(2)) in relation to an employee who was employed as a domestic servant in a private household, references in this Article and Articles 14(4) and (5) and 210 to a personal representative include a person to whom the management of the household has passed, otherwise than in pursuance of a sale or other disposition for valuable consideration, in consequence of the death of the employer.

#### **Death of employer: lay-off and short-time**

**210.**—(1) Where an employee is laid off or kept on short-time and his employer dies, this Part has effect in accordance with the following provisions of this Article.

(2) Where the employee—

- (a) has been laid off or kept on short-time for one or more weeks before the death of the employer,
- (b) has not given the deceased employer notice of intention to claim before the employer's death,
- (c) after the employer's death has his contract of employment renewed, or is re-engaged under a new contract, by a personal representative of the deceased employer, and
- (d) after renewal or re-engagement is laid off or kept on shorttime for one or more weeks by the personal representative,

the week in which the employer died and the first week of the employee's employment by the personal representative shall be treated for the purposes of Chapter III as consecutive weeks (and references to four weeks or thirteen weeks shall be construed accordingly).

(3) The following provisions of this Article apply where—

- (a) the employee has given the deceased employer notice of intention to claim before the employer's death,
- (b) the employer's death occurred before the end of the period of four weeks after the service of the notice, and
- (c) the employee has not terminated his contract of employment by notice expiring before the employer's death.

(4) If the contract of employment is not renewed, and the employee is not re-engaged under a new contract, by a personal representative of the deceased employer before the end of the period of four weeks after the service of the notice of intention to claim—

- (a) Articles 184 and 187 do not apply, but
- (b) (subject to that) Chapter III applies as if the employer had not died and the employee had terminated the contract of employment by a week's notice, or by the minimum notice which he is required to give to terminate the contract (if longer than a week), expiring at the end of that period.

(5) If—

- (a) the contract of employment is renewed, or the employee is re-engaged under a new contract, by a personal representative of the deceased employer before the end of the period of four weeks after the service of the notice of intention to claim, and
- (b) the employee was laid off or kept on short-time by the deceased employer for one or more of those weeks and is laid off or kept on short-time by the personal representative for the week, or for the next two or more weeks, following the renewal or re-engagement,

paragraph (6) has effect.

(6) Where this paragraph has effect Chapter III applies as if—

- (a) all the weeks mentioned in paragraph (5) were consecutive weeks during which the employee was employed (but laid off or kept on short-time) by the same employer, and
- (b) the periods specified by Article 185(3)(a) and (b) as the relevant period were extended by any week or weeks any part of which was after the death of the employer and before the date on which the renewal or re-engagement took effect.

### **Death of employee**

**211.**—(1) Where an employee whose employer has given him notice to terminate his contract of employment dies before the notice expires, this Part applies as if the contract had been duly terminated by the employer by notice expiring on the date of the employee's death.

(2) Where—

- (a) an employee's contract of employment has been terminated by the employer,
- (b) (by virtue of paragraph (5) of Article 180) a date later than the relevant date as defined by the previous provisions of that Article is the relevant date for the purposes of certain provisions of this Order, and
- (c) the employee dies before that date,

that paragraph applies as if the notice to which it refers would have expired on the employee's death.

(3) Where—

- (a) an employer has given notice to an employee to terminate his contract of employment and has offered to renew his contract of employment or to re-engage him under a new contract, and
- (b) the employee dies without having accepted or refused the offer and without the offer having been withdrawn,

Article 176(2) applies as if for the words "he unreasonably refuses" there were substituted "it would have been unreasonable on his part to refuse".

(4) Where an employee's contract of employment has been renewed or he has been re-engaged under a new contract—

- (a) if he dies during the trial period without having terminated, or given notice to terminate, the contract, Article 176(4) applies as if for sub-paragraph (d) there were substituted—
  - “(d) it would have been unreasonable for the employee during the trial period to terminate or give notice to terminate the contract.”, and
- (b) if during that trial period he gives notice to terminate the contract but dies before the notice expires, Articles 173(2) and 176(4) apply as if the notice had expired (and the contract had been terminated by its expiry) on the date of the employee's death.

(5) Where in the circumstances specified in sub-paragraphs (a) and (b) of paragraph (3) of Article 171 the employee dies before the notice given by him under sub-paragraph (b) of that paragraph expires—

- (a) if he dies before his employer has given him a notice such as is specified in paragraph (2) of Article 177, paragraphs (3) and (4) of that Article apply as if the employer had given him such a notice and he had not complied with it, and
- (b) if he dies after his employer has given him such a notice, that Article applies as if the employee had not died but did not comply with the notice.

(6) Where an employee has given notice of intention to claim—

- (a) if he dies before he has given notice to terminate his contract of employment and before the relevant period (as defined in paragraph (3) of Article 185) has expired, that section does not apply, and

- (b) if he dies within the period of seven days after the service of the notice of intention to claim, and before the employer has given a counter-notice, Chapter III applies as if the employer had given a counter-notice within that period of seven days.
- (7) Where a claim for a redundancy payment is made by a personal representative of a deceased employee—
  - (a) if the employee died before the end of the period of six months beginning with the relevant date, paragraph (1) of Article 199, and
  - (b) if the employee died after the end of the period of six months beginning with the relevant date but before the end of the following period of six months, paragraph (2) of that Article, applies as if for the words “six months” there were substituted “one year”.