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STATUTORY INSTRUMENTS

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**1996 No. 1919**

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

PART XI

UNFAIR DISMISSAL

CHAPTER II

REMEDIES FOR UNFAIR DISMISSAL

*Interim relief*

**Procedure on hearing of application and making of order**

**164.**—(1) This Article applies where, on hearing an employee's application for interim relief, it appears to the tribunal that it is likely that on determining the complaint to which the application relates the tribunal will find that the reason (or, if more than one, the principal reason) for his dismissal is one of those specified in Article 132(1)(a) and (b), 133(1), 134 or 136(1).

(2) The tribunal shall announce its findings and explain to both parties (if present)—

- (a) what powers the tribunal may exercise on the application, and
- (b) in what circumstances it will exercise them.

(3) The tribunal shall ask the employer (if present) whether he is willing, pending the determination or settlement of the complaint—

- (a) to reinstate the employee (that is, to treat him in all respects as if he had not been dismissed), or
- (b) if not, to re-engage him in another job on terms and conditions not less favourable than those which would have been applicable to him if he had not been dismissed.

(4) For the purposes of paragraph (3)(b) "terms and conditions not less favourable than those which would have been applicable to him if he had not been dismissed" means, as regards seniority, pension rights and other similar rights, that the period prior to the dismissal should be regarded as continuous with his employment following the dismissal.

(5) If the employer states that he is willing to reinstate the employee, the tribunal shall make an order to that effect.

(6) If the employer—

- (a) states that he is willing to re-engage the employee in another job, and
- (b) specifies the terms and conditions on which he is willing to do so,

the tribunal shall ask the employee whether he is willing to accept the job on those terms and conditions.

(7) If the employee is willing to accept the job on those terms and conditions, the tribunal shall make an order to that effect.

- (8) If the employee is not willing to accept the job on those terms and conditions—
  - (a) where the tribunal is of the opinion that the refusal is reasonable, the tribunal shall make an order for the continuation of his contract of employment, and
  - (b) otherwise, the tribunal shall make no order.
- (9) If on the hearing of an application for interim relief the employer—
  - (a) fails to attend before the tribunal, or
  - (b) states that he is unwilling either to reinstate or re-engage the employee as mentioned in paragraph (3),the tribunal shall make an order for the continuation of the employee’s contract of employment.