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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 II**

**RIGHT ON DISMISSAL BY REASON OF REDUNDANCY**

*Dismissal by reason of redundancy*

**Failure to permit return after childbirth treated as dismissal**

**172.**—(1) Subject to paragraph (2) and Article 173, where an employee who—

- (a) has the right conferred by Article 111, and
- (b) has exercised it in accordance with Article 114,

is not permitted to return to work, she shall be taken for the purposes of this Part to be dismissed for the reason for which she was not permitted to return with effect from the notified day of return (being deemed to have been continuously employed until that day).

(2) Where in proceedings arising out of a failure to permit an employee to return to work pursuant to the right conferred by Article 111 the employer shows—

- (a) that the reason for the failure is that the employee is redundant, and
- (b) that the employee was, or (had she continued to be employed by him) would have been, dismissed by reason of redundancy on a day falling after the commencement of her maternity leave period and before the notified day of return,

for the purposes of this Part the employee shall not be taken to be dismissed with effect from the notified day of return but shall be taken to be dismissed by reason of redundancy with effect from that earlier day (being deemed to have been continuously employed until that earlier day).