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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

###### *Introductory*

#### **Complaints to industrial tribunal**

**145.**—(1) A complaint may be presented to an industrial tribunal against an employer by any person that he was unfairly dismissed by the employer.

(2) [<sup>F1</sup>Subject to the following provisions of this Article] , an industrial tribunal shall not consider a complaint under this Article unless it is presented to the tribunal—

- (a) before the end of the period of three months beginning with the effective date of termination, or
- (b) within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.

[<sup>F2</sup>(2A) Article 249B (extension of time limits to facilitate conciliation before institution of proceedings) applies for the purposes of paragraph (2)(a).]

(3) Where a dismissal is with notice, an industrial tribunal shall consider a complaint under this Article if it is presented after the notice is given but before the effective date of termination.

(4) In relation to a complaint which is presented as mentioned in paragraph (3), the provisions of this Order, so far as they relate to unfair dismissal, have effect as if—

- (a) references to a complaint by a person that he was unfairly dismissed by his employer included references to a complaint by a person that his employer has given him notice in such circumstances that he will be unfairly dismissed when the notice expires,
- (b) references to reinstatement included references to the withdrawal of the notice by the employer,
- (c) references to the effective date of termination included references to the date which would be the effective date of termination on the expiry of the notice, and
- (d) references to an employee ceasing to be employed included references to an employee having been given notice of dismissal.

[<sup>F3</sup>(5) Where the dismissal is alleged to be unfair by virtue of Article 135F (blacklists)—

- (a) paragraph (2)(b) does not apply, and

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- (b) an industrial tribunal may consider a complaint that is otherwise out of time if, in all the circumstances of the case, it considers that it is just and equitable to do so.]

- F1** Words in art. 145(2) substituted (6.4.2014) by [The Employment Relations \(Northern Ireland\) Order 1999 \(Blacklists\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/88\)](#), regs. 1, **12(5)(a)**
- F2** [Art. 145\(2A\)](#) inserted (27.1.2020) by [Employment Act \(Northern Ireland\) 2016 \(c. 15\)](#), s. 29(2), **Sch. 2 para. 37**; S.R. 2020/1, art. 2(n)
- F3** [Art. 145\(5\)](#) added (6.4.2014) by [The Employment Relations \(Northern Ireland\) Order 1999 \(Blacklists\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/88\)](#), regs. 1, **12(5)(b)**

### The remedies: orders and compensation

**146.**—(1) This Article applies where, on a complaint under Article 145, an industrial tribunal finds that the grounds of the complaint are well-founded.

(2) The tribunal shall—

- (a) explain to the complainant what orders may be made under Article 147 and in what circumstances they may be made, and
- (b) ask him whether he wishes the tribunal to make such an order.

(3) If the complainant expresses such a wish, the tribunal may make an order under Article 147.

(4) If no order is made under Article 147, the tribunal shall make an award of compensation for unfair dismissal (calculated in accordance with Articles 152 to<sup>[F4 161]</sup>)<sup>F5</sup> . . . to be paid by the employer to the employee.

<sup>[F6]</sup>(5) Where—

- (a) an employee is regarded as unfairly dismissed by virtue of Article <sup>F7</sup>. . . 130A(1) (whether or not his dismissal is unfair or regarded as unfair for any other reason), and
- (b) an order is made in respect of the employee under Article 147,

the industrial tribunal shall, subject to paragraph (6), also make an award of four weeks' pay to be paid by the employer to the employee.

(6) An industrial tribunal shall not be required to make an award under paragraph (5) if it considers that such an award would result in injustice to the employer.]

- F4** 2003 NI 15
- F5** 1999 NI 9
- F6** 2003 NI 15
- F7** Words in art. 146(5)(a) omitted (6.4.2011) by virtue of [Employment Equality \(Repeal of Retirement Age Provisions\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/168\)](#), **reg. 3(6)** (with regs. 4, 5, 7)

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